



Republic of the Philippines  
Supreme Court  
Manila

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*Wilfredo V. Lapitan*  
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Division Clerk of Court  
Third Division

JUL 19 2019

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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**THIRD DIVISION**

SUSAN GALANG and G.R. No. 223434  
BERNADETH ALBINO, in  
representation for BRENDA  
FAGYAN, EDMUND FAGYAN,  
MARJORIE CADAWENG, and  
their successors-in-interest: VENUS  
ALBINO, ERICKSON GALANG,  
MICHELLE GALANG, PABLO  
PADAWIL, GRACE LILIBETH  
YANZON, JEFFERSON DUPING,  
SPS. JONATHAN JAVIER AND  
DOMINGA JAVIER, CELINE  
WAKAT, DUSTIN LICNACHAN,  
MARTHA PODES, LUCIA  
PANGKET, SPS. MARK SIBAYAN  
and BELINDA SIBAYAN, SPS.  
ANTONIO SO HU and SOLEDAD  
SO HU, and SPS. EDUARDO  
CALIXTO and PHOEBE CALIXTO,  
Petitioners,

- versus -

VERONICA WALLIS, NELSON  
INAGCONG SUMERWE,  
MANUEL KADATAR, FELINO  
EUGENIO, VICTORIA S.  
CERDON, JOANNA MARIE F.  
CASANDRA, APOLINARIO D.  
MORENO, SPOUSES LARRY and  
MARITES EDADES,  
EVANGELINE B. CAPPLEMAN,  
PILAR T. QUILACIO, MARLON  
SIBAYAN, DAISY MAE RIVER,  
ROSITA AGASEN, JOAN  
CIRIACO, FLORABEL N.  
FLORDELIS, SPOUSES

*OK*

**THEODORE UY and JHOANNA UY, SPOUSES WILBER NGAY-OS and CRISTINA NGAY-OS, AND ALL PERSONS ACTING UNDER THEIR AUTHORITY AND DIRECTION, THE MUNICIPAL ASSESSOR'S OFFICE OF ITOGON, THE PROVINCIAL ASSESSOR'S OFFICE OF BENGUET, AND DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,**

Respondents.

**Present:**

PERALTA, J., *Chairperson*,  
LEONEN,  
REYES, A., JR.,  
HERNANDO, and  
INTING, JJ.

**Promulgated:**

July 3, 2019

X-----X

*Hyfred J. Peralta*

## DECISION

**PERALTA, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Order<sup>2</sup> dated August 27, 2015 and the Order<sup>3</sup> dated February 8, 2016 of the Regional Trial Court (RTC), First Judicial Region, Branch 10, La Trinidad, Benguet, dismissing the case for lack of jurisdiction.

The antecedent facts are as follows.

On May 4, 2015, petitioners Susan Galang and Bernadeth Albino, in representation for Brenda Fagyan, Edmund Fagyan, Marjorie Cadaweng, and their successors-in-interest: Venus Albino, Erickson Galang, Michelle Galang, Pablo Padawil, Grace Lilibeth Yanzon, Jefferson Duping, spouses Jonathan Javier and Dominga Javier, Celine Wakat, Dustin Licnachan, Martha Podes, Lucia Pangket, spouses Mark Sibayan and Belinda Sibayan, spouses Antonio So Hu and Soledad So Hu, and spouses Eduardo Calixto and Phoebe Calixto, filed a Complaint<sup>4</sup> for *Accion Reivindicatoria*, Declaration of Nullity of PSU No. 203172, Annulment of Tax Declaration, Injunction with Prayer for Temporary Restraining Order (TRO) and Damages, claiming to be the lawful owners of parcels of land located at Ampucao, Itogon, Benguet. In said complaint, they traced the provenance of their title to a certain Wasiwas Bermor, the *Teñiente Del Barrio* of Ampucao Itogon, Benguet, who occupied

<sup>1</sup> Rollo, pp. 3-25.

<sup>2</sup> *Id.* at 173-178; penned by Acting Presiding Judge Danilo P. Camacho.

<sup>3</sup> *Id.* at 185; penned by Acting Presiding Judge Emmanuel C. Rasing.

<sup>4</sup> *Id.* at 27-40.

the land as early as 1908 and registered the same in his name in 1961. Then, by virtue of a Deed of Absolute Sale dated September 13, 1973, petitioner Brenda Fagyan acquired the land from Wasiwas Bermor and, subsequently, divided and transferred portions thereof to the rest of the petitioners. According to petitioners, moreover, despite the fact that they legally acquired the subject lands as evidenced by the Deeds of Absolute Sale they presented, respondents Veronica Wallis, Nelson Inagcong Sumerwe, Manuel Kadatar, Felino Eugenio, Victoria S. Cerdon, Joanna Marie F. Casandra, Apolinario D. Moreno, spouses Larry and Marites Edades, Evangeline B. Cappleman, Pilar T. Quilacio, Marlon Sibayan, Daisy Mae River, Rosita Agasen, Joan Ciriaco, Florabel N. Flordelis, spouses Theodore Uy and Jhoanna Uy, and spouses Wilber Ngay-os and Cristina Ngay-os have been intruding into their land in bad faith and without any color of title. They assert that the documents being used by respondents to justify their intrusion, particularly Tax Declaration No. 2010-01-09-02350 and PSU No. 203172, were fraudulently acquired and are patent nullities. As such, petitioners prayed that the RTC: (1) declare them as the true and absolute owners of the subject lands; (2) issue a TRO restraining respondents from pursuing any more improvements and excavations thereon; (3) order respondents to vacate the portions of the lands that they are unlawfully occupying; (4) restore them of their lawful possession of the same; (5) declare as null and void the documents of ownership being used by respondents; and (6) order respondents to pay them damages and costs of the suit.

In their Answer and Motion to Dismiss incorporated in their Opposition, the respondents alleged that the RTC had no jurisdiction over the subject matter of the case because of the fact that the land subject of the controversy is an ancestral land and that said controversy is among members of indigenous peoples' groups. As such, the case falls within the exclusive jurisdiction of the Hearing Officer of the National Commission on Indigenous Peoples (*NCIP*). In support of their claim, respondents submitted a Resolution dated August 30, 1998, issued by the Community Special Task Force on Ancestral Lands, granting the application for recognition of ancestral land in favor of the Heirs of Toato Bugnay, represented by respondent Veronica Wallis. In addition, respondents further alleged that petitioners have no cause of action against them as the latter have no right over the subject land and that even assuming that they had such right, they already waived the same to third persons.<sup>5</sup>

In its Order dated August 27, 2015, the RTC dismissed the complaint on the finding that it is bereft of jurisdiction to hear and decide the case. The trial court used as its basis Section 66 of Republic Act (*R.A.*) No. 8371, otherwise known as *The Indigenous Peoples' Rights Act of 1997 (IPRA)*, which provides that "[t]he NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights" of Indigenous

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<sup>5</sup> *Id.* at 174.



Cultural Communities (*ICC*)/Indigenous Peoples (*IP*), as well as Section 5, Rule III of NCIP Administrative Circular No. 1-03 dated April 9, 2003, known as the *Rules on Pleadings, Practice and Procedure before the NCIP*, reiterating the exclusive jurisdiction of the NCIP over claims and disputes involving ancestral lands. Thus, since the case involves a dispute or controversy of property rights over an ancestral land between members of the IP, jurisdiction properly pertains with the NCIP. The RTC held further that even if it subscribes to the contention that both the trial courts and the NCIP have jurisdiction over the present action, still jurisdiction should pertain to the latter under the doctrine of primary jurisdiction.<sup>6</sup>

In another Order<sup>7</sup> dated February 8, 2016, the RTC denied the Motion for Reconsideration of the petitioners and ruled that the parties may litigate before the NCIP. Aggrieved by such denial, petitioners filed the instant petition on April 4, 2016, invoking the following argument:

THE REGIONAL TRIAL COURT DECIDED A QUESTION OF SUBSTANCE WHICH IS NOT IN ACCORDANCE WITH THE LAW AND THE APPLICABLE DECISIONS OF THE SUPREME COURT.<sup>8</sup>

In their petition, petitioners raise the sole question of whether the NCIP has jurisdiction over their complaint such that it precludes the RTC from taking cognizance of the case. According to the petitioners, the RTC wrongfully ruled that it has no jurisdiction over the case on the ground that the same falls within the exclusive jurisdiction of the NCIP. This is because on the basis of the Court's pronouncement in *Unduran, et al. v. Aberasturi, et al.*,<sup>9</sup> the jurisdiction of the NCIP covers only disputes between and among members of the same ICC/IP involving their rights under the IPRA. But in the instant case, the parties do not belong to the same ICC/IP and most are not even ICC/IP at all. Neither does the case involve a dispute over an ancestral land of a particular ICC/IP. On the contrary, petitioners assert that their complaint is an *accion reivindicatoria*, a civil action involving an interest in a real property with an assessed value of more than ₱20,000.00, which is well within the jurisdiction of the RTC. Besides, as the ruling in *Lamsis, et al. v. Dong-E*<sup>10</sup> dictates, an action for ancestral land registration is not a bar for an *accion reivindicatoria* as the same does not constitute *litis pendentia* or *res judicata*.<sup>11</sup>

The petition is impressed with merit.

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<sup>6</sup> *Id.* at 175-178.

<sup>7</sup> *Supra* note 3.

<sup>8</sup> *Supra* note 1, at 13.

<sup>9</sup> 771 Phil. 536 (2015).

<sup>10</sup> 648 Phil. 372 (2010).

<sup>11</sup> *Rollo*, pp. 13-25.

The bone of contention in the present case has already been extensively discussed in our pronouncement in *Unduran, et al. v. Aberasturi, et al.*<sup>12</sup> There, the Court unequivocally declared that pursuant to Section 66<sup>13</sup> of the IPRA, the NCIP shall have jurisdiction over claims and disputes involving rights of ICC/IP only when they arise between or among parties belonging to the same ICC/IP group. When such claims and disputes arise between or among parties who do not belong to the same ICC/IP group, the case shall fall under the jurisdiction of the regular courts, instead of the NCIP. Thus, even if the real issue involves a dispute over a land which appears to be located within the ancestral domain of the ICC/IP, it is not the NCIP, but the RTC, which has the power to hear, try and decide the case.<sup>14</sup> In no uncertain terms, the Court explained:

As held in the main decision, the **NCIP shall have jurisdiction over claims and disputes involving rights of ICCs/IPs only when they arise between or among parties belonging to the same ICC/IP group because of the qualifying provision under Section 66 of the IPRA that "no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws."** Bearing in mind that the primary purpose of a proviso is to limit or restrict the general language or operation of the statute, and that what determines whether a clause is a proviso is the legislative intent, the Court stated that said qualifying provision requires the presence of two conditions before such claims and disputes may be brought before the NCIP, i.e., exhaustion of all remedies provided under customary laws, and the Certification issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved. **The Court thus noted that the two conditions cannot be complied with if the parties to a case either (1) belong to different ICCs/IP groups which are recognized to have their own separate and distinct customary laws, or (2) if one of such parties was a non-ICC/IP member who is neither bound by customary laws or a Council of Elders/Leaders, for it would be contrary to the principles of fair play and due process for parties who do not belong to the same ICC/IP group to be subjected to its own distinct customary laws and Council of Elders/Leaders.** In which case, the Court ruled that the regular courts shall have jurisdiction, and that the NCIP's quasi-judicial jurisdiction is, in effect, limited to cases where the opposing parties belong to the same ICC/IP group.<sup>15</sup> (Emphases supplied; citations omitted.)

This is precisely the case in the present controversy. As the RTC pointed out and likewise alleged by respondents, the parties herein are members of indigenous groups and that the case involves a dispute among

<sup>12</sup> *Supra* note 9; see also *Unduran v. Aberasturi*, G.R. No. 181284, April 18, 2017, 823 SCRA 80.

<sup>13</sup> Section 66 of R.A. No. 8371 provides:

SECTION 66. Jurisdiction of the NCIP. — The NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs; Provided, however, That no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP.

<sup>14</sup> *Unduran v. Aberasturi*, *supra* note 12, at 99.

<sup>15</sup> *Id.* at 103-104.

groups of indigenous people.<sup>16</sup> They do not, however, belong to the same ICC/IP group. Thus, applying the doctrine in *Unduran*, it is the RTC, and not the NCIP, which has jurisdiction over the instant case. This is so even if it was also found that the subject land appears to be classified as ancestral land. We, therefore, find that the RTC should not have dismissed the complaint as it actually had jurisdiction over the same.

Besides, it bears emphasis that as in *Unduran*, the allegations in petitioners' complaint neither alleged that the parties are members of ICC/IP nor that the case involves a dispute or controversy over ancestral lands/domains of ICC/IP. Rather, the allegations in their complaint make up for an *accion reivindicatoria*, a civil action involving an interest in a real property with an assessed value of more than ₱20,000.00. Thus, similar to the finding of the Court in *Unduran*, the complaint of petitioners herein is well within the jurisdiction of the RTC. Indeed, jurisdiction over the subject matter is conferred by the Constitution or by law. A court of general jurisdiction has the power or authority to hear and decide cases whose subject matter does not fall within the exclusive original jurisdiction of any court, tribunal or body exercising judicial or quasi-judicial function. In contrast, a court of limited jurisdiction, or a court acting under special powers, has only the jurisdiction expressly delegated. An administrative agency, acting in its quasi-judicial capacity, is a tribunal of limited jurisdiction which could wield only such powers that are specifically granted to it by the enabling statutes. Limited or special jurisdiction is that which is confined to particular causes or which can be exercised only under limitations and circumstances prescribed by the statute.<sup>17</sup>

With respect to the finding of the RTC on primary and concurrent jurisdiction of the regular courts and the NCIP, moreover, the Court pronounced in *Unduran* that there is nothing in the provisions of the entire IPRA that expressly or impliedly confer concurrent jurisdiction to the NCIP and the regular courts over claims and disputes involving rights of ICC/IP between and among parties belonging to the same ICC/IP group. As such, the NCIP's jurisdiction vested under Section 66 of the IPRA is merely limited and cannot be deemed concurrent with the regular courts. Instead, its primary jurisdiction is bestowed not under Section 66, but under Sections 52 (h)<sup>18</sup> and

<sup>16</sup> *Rollo*, pp. 174-175.

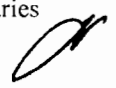
<sup>17</sup> *Unduran v. Aberasturi*, *supra* note 12, at 102-103.

<sup>18</sup> Section 52 of the IPRA provides:

SECTION 52. Delineation Process. — The identification and delineation of ancestral domains shall be done in accordance with the following procedures:

x x x x

h) Endorsement to NCIP. — Within fifteen (15) days from publication, and of the inspection process, the Ancestral Domains Office shall prepare a report to the NCIP endorsing a favorable action upon a claim that is deemed to have sufficient proof. However, if the proof is deemed insufficient, the Ancestral Domains Office shall require the submission of additional evidence: Provided, That the Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification: Provided, further, That in case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP: Provided, furthermore, That in cases where there are conflicting claims among ICCs/IPs on the boundaries



53,<sup>19</sup> in relation to Section 62,<sup>20</sup> and Section 54<sup>21</sup> of the IPRA. Thus, only when the claims involve the following matters shall the NCIP have primary jurisdiction regardless of whether the parties are non-ICC/IP, or members of different ICC/IP groups: (1) adverse claims and border disputes arising from the delineation of ancestral domains/lands; (2) cancellation of fraudulently issued Certificates of Ancestral Domain Title; and (3) disputes and violations of ICC/IP's rights between members of the same ICC/IP group.<sup>22</sup> A perusal of the allegations in the complaint before us, however, reveals that the present controversy does not involve these matters cognizable by the primary jurisdiction of the NCIP. Hence, we reiterate our finding that the RTC has jurisdiction over the instant case.

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of ancestral domain claims, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to the section below.

<sup>19</sup> Section 53 of the IPRA provides:

SECTION 53. Identification, Delineation and Certification of Ancestral Lands. —

x x x x

e) Upon receipt of the applications for delineation and recognition of ancestral land claims, the Ancestral Domains Office shall cause the publication of the application and a copy of each document submitted including a translation in the native language of the ICCs/IPs concerned in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial, and regional offices of the NCIP and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication: Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspapers and radio station are not available;

f) Fifteen (15) days after such publication, the Ancestral Domains Office shall investigate and inspect each application, and if found to be meritorious, shall cause a parcellary survey of the area being claimed. The Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification. In case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP. In case of conflicting claims among individuals or indigenous corporate claimants, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to Sec. 62 of this Act. In all proceedings for the identification or delineation of the ancestral domains as herein provided, the Director of Lands shall represent the interest of the Republic of the Philippines; and

g) The Ancestral Domains Office shall prepare and submit a report on each and every application surveyed and delineated to the NCIP, which shall, in turn, evaluate the report submitted. If the NCIP finds such claim meritorious, it shall issue a certificate of ancestral land, declaring and certifying the claim of each individual or corporate (family or clan) claimant over ancestral lands.

<sup>20</sup> Section 62 of the IPRA provides:

SECTION 62. Resolution of Conflicts. — In cases of conflicting interest, where there are adverse claims within the ancestral domains as delineated in the survey plan, and which [cannot] be resolved, the NCIP shall hear and decide, after notice to the proper parties, the disputes arising from the delineation of such ancestral domains: Provided, That if the dispute is between and/or among ICCs/IPs regarding the traditional boundaries of their respective ancestral domains, customary process shall be followed. The NCIP shall promulgate the necessary rules and regulations to carry out its adjudicatory functions: Provided, further, That any decision, order, award or ruling of the NCIP on any ancestral domain dispute or on any matter pertaining to the application, implementation, enforcement and interpretation of this Act may be brought for Petition for Review to the Court of Appeals within fifteen (15) days from receipt of a copy thereof.

<sup>21</sup> Section 54 of the IPRA provides:

SECTION 54. Fraudulent Claims. — The Ancestral Domains Office may, upon written request from the ICCs/IPs, review existing claims which have been fraudulently acquired by any person or community. Any claim found to be fraudulently acquired by, and issued to, any person or community may be cancelled by the NCIP after due notice and hearing of all parties concerned.

<sup>22</sup> *Unduran v. Aberasturi*, *supra* note 12, at 106-107.

Finally, as regards the trial court's reliance on our pronouncement in *The City Government of Baguio City, et al. v. Atty. Masweng, et al.*,<sup>23</sup> we clarify that the same is a mere expression of opinion and has no binding force. Again, in *Unduran v. Aberasturi*,<sup>24</sup> we ruled:

Anent what Justice Perez described as the "implicit affirmation" done in *The City Government of Baguio City v. Masweng* of the NCIP's jurisdiction over cases where one of the parties is not ICC/IPs, a careful review of that case would show that the Court merely cited Sections 3(k), 38 and 66 of the IPRA and Section 5 of NCIP Administrative Circular No. 1-03 dated April 9, 2003, known as the Rules on Pleadings, Practice and Procedure Before the NCIP, as bases of its ruling to the effect that disputes or controversies over ancestral lands/domains of ICCs/IPs are within the original and exclusive jurisdiction of the NCIP-RHO. **However, the Court did not identify and elaborate on the statutory basis of the NCIP's "original and exclusive jurisdiction" on disputes or controversies over ancestral lands/domains of ICCs/IPs. Hence, such description of the nature and scope of the NCIP's jurisdiction made without argument or full consideration of the point, can only be considered as an obiter dictum, which is a mere expression of an opinion with no binding force for purposes of *res judicata* and does not embody the determination of the court.**<sup>25</sup> (Citations omitted; emphasis supplied.)

All told, in view of the fact that the parties herein do not belong to the same ICC/IP group, some of whom do not even belong to any ICC/IP at all, the Court rules that it is the RTC, and not the NCIP, which has jurisdiction over the present controversy. *Unduran* clearly teaches us that under Section 66 of the IPRA, the NCIP shall have limited jurisdiction over claims and disputes involving rights of IP/ICC *only when they arise between or among parties belonging to the same ICC/IP group*; but if such claims and disputes arise between or among parties who do not belong to the same ICC/IP group, the proper regular courts shall have jurisdiction. Thus, even if the land subject of the instant case appears to be classified as ancestral, since the dispute thereon does not comply with the requirements under Section 66, nor does it involve the exceptional matters under Sections 52 (h) and 53, in relation to Section 62, as well as Section 54 of the IPRA; we, therefore, hold that the RTC erred in dismissing the complaint before it, being the proper tribunal clothed with jurisdiction to entertain the same.

**WHEREFORE**, premises considered, the instant petition is **GRANTED**. The assailed Orders dated August 27, 2015 and February 8, 2016 of the Regional Trial Court, First Judicial Region, Branch 10, La Trinidad, Benguet, are **REVERSED** and **SET ASIDE**. The case is, therefore, **REMANDED** to said trial court for further proceedings and for proper disposition on the merits.

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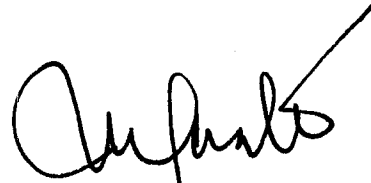
<sup>23</sup> 597 Phil. 668 (2009).

<sup>24</sup> *Supra* note 12.

<sup>25</sup> *Id.* at 124-126.




**SO ORDERED.**




**DIOSDADO M. PERALTA**  
Associate Justice


**WE CONCUR:**



**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice



**ANDRES B. REYES, JR.**  
Associate Justice



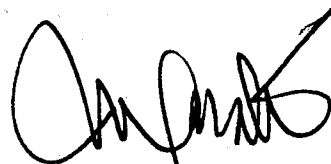
**RAMON PAUL L. HERNANDO**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice

**ATTESTATION**

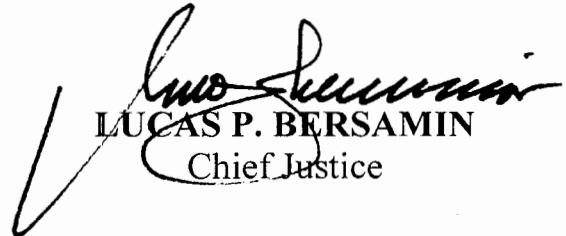
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

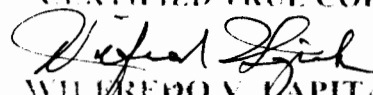


**DIOSDADO M. PERALTA**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
LUCAS P. BERSAMIN  
Chief Justice

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Division Clerk of Court  
Third Division

JUL 19 2019