



Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION

**WATERFRONT PHILIPPINES, INC.,  
 WELLEX INDUSTRIES, INC., AND  
 THE WELLEX GROUP, INC.,**  
*Petitioners,*

**G.R. No. 249337**

Present:

GESMUNDO, C.J.,  
 CAGUIOA,  
 CARANDANG,  
 ZALAMEDA, and  
 GAERLAN, JJ.

- versus -

**SOCIAL SECURITY SYSTEM,**  
*Respondent.*

Promulgated:

**JUL 06 2021**

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**DECISION**

**GAERLAN, J.**

This resolves the Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court filed by petitioners Waterfront Philippines, Inc. (WPI), Wellex Industries, Inc. (WII), and the Wellex Group, Inc. (WGI) praying for the reversal of the August 30, 2019 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 104941, which reversed the January 13, 2015 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 76. The RTC dismissed the complaint for sum of money filed by respondent Social Security System (SSS).

**Antecedents**

On October 28, 1999, a Contract of Loan with Real Estate Mortgage with Option to Convert to Shares of Stock (contract of loan) for ₱375,000,000.00 was executed between petitioners WPI, WII, and WGI, as debtor, and SSS as creditor. Said contract of loan was for a term of five years, with interest on the principal amount at the equivalent rate of 364-day Philippine T-bill plus 3% but not lower than 14.5% *per annum*, re-priced annually.<sup>4</sup>

<sup>1</sup> *Rollo*, pp. 33-62.

<sup>2</sup> *Id.* at 10-30; penned by Associate Justice Pablito A. Perez, with Associate Justices Franchito N. Diamante and Tita Marilyn B. Payoyo-Villordon, concurring.

<sup>3</sup> *Id.* at 246-265; was rendered by Judge Alexander S. Balut.

<sup>4</sup> *Id.* at 12.

As a security for the loan, WII constituted a mortgage in favor of SSS over two parcels of land located at Temple Drive, Green Meadows Subdivision, Quezon City, measuring 6,687.7 square meters, and registered under Transfer Certificate of Title (TCT) Nos. N-153395 and N-153396 (mortgaged properties). As an additional security, WGI delivered two hundred million of its common shares to an escrow bank/agent for the account of SSS.<sup>5</sup>

Thereafter, on October 29, 1999, the parties executed other related contracts denominated as an Addendum to the adverted contract of loan by SSS and WPI, WII, and WGI; a Convertible Promissory Note by WPI, WII, and WGI; and an Escrow Agency Agreement by SSS, WPI and WGI. Additionally, the Regina Capital Development Corporation also issued a Certification showing actual physical possession of 200,000,000 WPI Common Shares registered under the name of WGI.<sup>6</sup>

Then, from October to November 1999, SSS released to WPI ₱375,000,000.00 in three tranches.<sup>7</sup>

Meanwhile, on April 26, 2000, the initial interest payment of ₱26,528,958.34 fell due. Thus, on May 16, 2000, WPI made a partial payment amounting to ₱10,875,000.00. To maintain the required 100 percent collateral cover, WPI and WII added thirty-five million WPI shares of stock, and eighty million WII shares of stock to those originally assigned to SSS.<sup>8</sup>

As of October 30, 2000, WPI's indebtedness amounted to ₱419,885,517.80, representing the principal, interest, and penalties. Then, on December 13, 2000, SSS issued Social Security Commission (SSC) Resolution No. 1003 approving WPI's offer to partially settle its indebtedness through a debt-to-property swap of the mortgaged properties at the agreed transfer value of ₱267,508,000.00. WPI and SSS further agreed to restructure WPI's remaining loan balance.<sup>9</sup>

On March 14, 2001, SSS and WPI, with WII signing as registered owner of the mortgaged properties, executed a Deed of Assignment (*dacion en pago*).<sup>10</sup> It was agreed that WPI and WII will transfer, register, and deliver the mortgaged properties to SSS within 60 days from the execution of the *dacion en pago*. In case of failure to effect the transfer of the mortgaged properties, the *dacion en pago* will be *ipso facto* declared null and void and SSS will be

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<sup>5</sup> Id.

<sup>6</sup> Id. at 13.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id. at 139-145.

allowed to collect the debt in accordance with the contract of loan. WPI and WII were obligated to shoulder the taxes and expenses for the transfer of the properties to SSS.<sup>11</sup>

On July 31, 2001, WPI made additional partial payments of ₱9,952,695.87 for the unpaid interest due.<sup>12</sup>

Unfortunately, WPI experienced difficulty in paying the capital gains tax, and thus failed to transfer the mortgaged properties in SSS's name within the agreed period. In a letter dated December 18, 2001, WPI submitted a formal restructuring proposal to settle its delinquencies. It also delivered to SSS checks amounting to ₱5,000,000.00, and ₱10,000,000.00 as payment for the interest due. Hence, as of January 10, 2002, the aggregate payments made by WPI under the original contract of loan was ₱35,827,695.87.<sup>13</sup>

However, SSS rejected WPI's new proposal and declared the latter's entire loan obligation due and demandable in accordance with the contract of loan. It sent a final demand letter dated April 1, 2003, enjoining WPI, WII, and WGI to jointly and severally settle their total loan obligation of ₱577,005,247.26, inclusive of interest and penalty, computed as of March 31, 2003.<sup>14</sup>

Petitioners failed to settle the loan. Consequently, SSS extrajudicially foreclosed the mortgaged properties. During the August 7, 2003 foreclosure sale, SSS emerged as the highest bidder with a bid price of ₱198,638,000.00. Subsequently, a Certificate of Sale dated September 19, 2003, was issued to SSS. Despite the foreclosure sale, WPI still had an outstanding balance of ₱452,750,886.28 as of March 31, 2004.<sup>15</sup>

This prompted SSS to file on May 13, 2004, a complaint for Sum of Money with Damages<sup>16</sup> against WPI, WII and WGI. In its Complaint, SSS likewise prayed for an award of moral and exemplary damages due to WPI's alleged fraud in contracting the loan and bad faith in complying with its prestations.

In response, WPI filed its Answer<sup>17</sup> countering that it had acted in good faith in complying with its prestations. It alleged that SSS abused its rights as a

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<sup>11</sup> Id. at 13-14.

<sup>12</sup> Id. at 14.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id. at 14-15.

<sup>16</sup> Id. at 97-118.

<sup>17</sup> Id. at 146-156.

creditor and argued that the execution of the *dacion en pago* effectively transferred the ownership of WII's mortgaged properties to SSS. It also asserted that SSS' action is premature as its right of redemption had not yet expired.

Meanwhile, WII filed an Answer (*Ad Cautelam*)<sup>18</sup> praying for the dismissal of the complaint, payment of moral and exemplary damages, attorney's fees, and costs of litigation. It averred that it is not a co-borrower or solidary debtor of WPI. It claimed that it cannot be held solidarily liable with WPI as they are two distinct corporations. Its obligation as security collateral provider had been terminated when SSS foreclosed the properties it offered as security. It likewise alleged that it never acted in bad faith and that it was actually SSS that first breached the agreement when it unilaterally rescinded the *dacion en pago* and unjustly foreclosed the properties at a price way below the agreed transfer value.

WGI likewise filed an Answer (*Ad Cautelam*)<sup>19</sup> praying for the dismissal of the complaint, payment of moral and exemplary damages, attorney's fees, and costs of litigation. It denied being a co-borrower or solidary debtor with WPI. It emphasized that it cannot be held jointly and solidarily liable with WPI as they are two distinct corporations. It also insisted that SSS' claim against it is premature as it had not yet drawn on the shares it placed in escrow.

### **Ruling of the RTC**

On January 13, 2015, the RTC dismissed the complaint for sum of money.<sup>20</sup> The RTC declared that WPI was not guilty of bad faith and fraud in contracting its obligation. It stated that SSS' contentions of bad faith and fraud were merely conjectural.<sup>21</sup> It ratiocinated that WPI's partial payments and its proposal to enter into a *dacion en pago* disprove bad faith.

Likewise, the RTC opined that SSS validly rescinded the *dacion en pago* due to WPI and WII's failure to transfer the mortgaged properties in SSS' name. In view of the rescission of the *dacion en pago*, SSS validly reverted to the original contract of loan and commenced foreclosure proceedings.<sup>22</sup>

Moreover, the RTC declared that WII and WGI are not solidarily liable with WPI. The contract of loan and the convertible promissory note do not contain any express provision as to their solidary liability.<sup>23</sup>

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<sup>18</sup> Id. at 159-170.

<sup>19</sup> Id. at 174-179.

<sup>20</sup> Id. at 246-265.

<sup>21</sup> Id. at 258.

<sup>22</sup> Id. at 263.

<sup>23</sup> Id. at 262.

Furthermore, the RTC noted that implicit in the entire issue of the case is the authority of SSS to contract the subject loan obligation. It declared that the contract of loan is not included among the powers of SSS under Section 26 of Republic Act (R.A.) No. 8282. The RTC elucidated that under Section 26, the investment of reserve funds may only be done for specific purposes, which does not include offering it for a loan. Additionally, the RTC questioned the authority of SSS Executive Vice President Leopoldo S. Veroy (EVP Veroy) and Senior Vice President Edgar Solilapsi (SVP Solilapsi) to enter into the contract of loan. It further observed that SSS failed to present any evidence to show that its President delegated his powers or approved the authority of said officers. According to the RTC, the lack of authority renders the contract of loan void. It emphasized that the doctrine of estoppel cannot operate to give effect to an act which is otherwise void or *ultra vires*.

Finally, the RTC concluded that since the principal contract of loan was void, then the accessory real estate mortgage must likewise be declared invalid.<sup>24</sup> It stressed that a mortgage contract is an accessory contract which cannot exist without a principal obligation.<sup>25</sup> As no rights flow from the contract of loan, there can be no damages, including interest to be awarded. Neither party is entitled to legal protection. However, the RTC declared that under the principle of unjust enrichment, it is equitable and imperative that the parties return the amount and properties received under the contract of loan.<sup>26</sup>

The RTC disposed of the case as follows:

WHEREFORE, premises considered, judgment is rendered (a) dismissing the case, together with the defendants' respective counterclaims and (b) ordering:

b.1. Defendant Waterfront Philippines, Inc. to return the amount of Three Hundred Seventy Five Million (PhP375,000,000.00) received from [respondent] Social Security System under the Contract of Loan with Real Estate Mortgage and Assignment of Shares with Option to Convert to Shares of Stock;

b.2. [Respondent] Social Security System to reconvey to [petitioner] Wellex Industries, Inc. the two (2) parcels of land covered by Transfer Certificate of Title Nos. N-153396 [sic] and N-153396 both of the Register of Deeds of Quezon City; and

b.3. [Respondent] Social Security System to return to

b.3.a. [Petitioner] Wellex Group, Inc. the stock certificates representing 235,000,000 shares of Waterfront Philippines, Inc.;

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<sup>24</sup> Id. at 263.

<sup>25</sup> Id.

<sup>26</sup> Id. at 264.

b.3.b. [Petitioner] Wellex Industries, Inc. the stock certificates representing the 80,000,000 shares of Wellex Industries, Inc. and

b.3.c. [Petitioner] Waterfront Philippines, Inc. the original copies of the Transfer Certificate of Titles submitted as proposed additional collaterals.  
SO ORDERED.<sup>27</sup>

Aggrieved, SSS filed an appeal.

### **Ruling of the CA**

On August 30, 2019, the CA rendered a Decision<sup>28</sup> reversing the RTC's pronouncement. Initially, the CA concurred with the RTC that WPI did not act in bad faith in contracting the loan.<sup>29</sup> The CA declared that WPI's and WII's failure to effect the transfer of the mortgaged properties was not due to a fraudulent motive.<sup>30</sup> Likewise, the CA agreed with the RTC that WII and WGI are not solidarily liable with WPI. It noted that the contract of loan does not contain any express stipulation stating that WII and WGI agreed to bind themselves jointly and severally with WPI.<sup>31</sup>

However, the CA disagreed with the RTC regarding the validity of the loan agreement. The CA focused on the fact that WPI failed to raise the issue regarding the authority of SSS to enter into the loan agreement during the trial, pre-trial or in any of the pleadings. The CA noted that the issue of authority was assailed for the first time in WPI's Memorandum and after the parties had formally offered their respective evidence.<sup>32</sup> The CA further noted that during the pre-trial, the petitioners, through their counsel, stipulated on the due execution and genuineness of the Contract of Loan.<sup>33</sup> Thus, the CA ruled that the issue regarding SSS officers' authority to enter into the contract of loan may no longer be resolved.

Moreover, the CA upheld the validity of the mortgage contract and the subsequent foreclosure of the mortgaged properties.<sup>34</sup> It explained that SSS exercised a lawful right as an unpaid creditor in the extrajudicial foreclosure of the properties.<sup>35</sup> It elucidated that after applying the purchase price of the mortgaged properties to WPI's outstanding loan, the latter still has a deficiency

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<sup>27</sup> Id. at 264-265.

<sup>28</sup> Id. at 10-30.

<sup>29</sup> Id. at 22.

<sup>30</sup> Id. at 23.

<sup>31</sup> Id. at 25.

<sup>32</sup> Id. at 20.

<sup>33</sup> Id. at 20-22.

<sup>34</sup> Id. at 26.

<sup>35</sup> Id. at 26-27.

of ₱841,567,136.85 as of April 30, 2010. The CA imposed the stipulated interest and penalty charge in accordance with the terms and conditions of the contract of loan, and ordered the payment of six percent (6%) interest *per annum* on the total monetary award to run from the finality of its Decision until the full satisfaction thereof.<sup>36</sup>

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the appeal is GRANTED. The *Decision* dated January 13, 2015 and *Order* dated May 11, 2015 of Branch 76, Regional Trial Court of Quezon City in Civil Case No. Q-04-52629 are REVERSED and SET ASIDE.

The October 28, 1999 "*Contract of Loan with Real Estate Mortgage and Assignment of Shares with Option to Convert to Shares of Stock*" and the extrajudicial foreclosure sale of the Green Meadows properties covered by Transfer Certificate of Title Nos. N-153395 and N-153396 are declared VALID.

Defendant-Appellee Waterfront Philippines, Inc. is ORDERED to satisfy the deficiency under the October 28, 1999 "*Contract of Loan with Real Estate Mortgage and Assignment of Shares with Option to Convert to Shares of Stock*" in the sum of PhP841,567,136.85 due to plaintiff-appellant Social Security System as of April 30, 2010. This obligation shall earn the stipulated interest and penalty charge in accordance with the term and conditions of the October 28, 1999 "*Contract of Loan with Real Estate Mortgage and Assignment of Shares with Option to Convert Shares of Stock*", computed from April 30, 2010 until finality of this Decision.

The total monetary award shall earn interest at the rate of six percent (6%) per annum, computed from the finality of this Decision until its full satisfaction.

SO ORDERED.<sup>37</sup>

Undeterred, petitioners filed the instant Petition for Review on *Certiorari*.<sup>38</sup>

### Issues

The pivotal issues in the instant case are (i) whether or not the SSS officers had authority to enter into the contract of loan; (ii) whether or not the principal contract of loan is valid; and correlatively, (iii) whether or not the accessory mortgage contract is valid.<sup>39</sup>

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<sup>36</sup> Id. at 28.

<sup>37</sup> Id. at 29.

<sup>38</sup> Id. at 33-62.

<sup>39</sup> Id. at 42.

Petitioners lament that the CA erred in failing to consider that the authority of the SSS to contract the loan is a primordial issue in this case.<sup>40</sup> They point out that pursuant to the SSS charter, particularly, Section 3(b) of R.A. No. 8282, it is only the President of the SSS who has the power to enter into contracts on its behalf.<sup>41</sup> In this case, the signatories in the contract of loan were not the President, but EVP Veroy and SVP Solilapsi.<sup>42</sup>

Petitioners further argue that under Section 26 of R.A. No. 8282, the SSC may only invest the reserve fund in accordance with the purposes stated therein. Petitioners contend that the subject contract of loan did not fall under the enumeration of allowable investments.<sup>43</sup> They proffer that SSS' act in entering into the contract is *ultra vires*.<sup>44</sup>

Likewise, petitioners bewail that to deprive them of the right to question the authority of the SSS would be to sacrifice justice for technicality.<sup>45</sup> They also insist that they timely questioned the SSS' authority to enter into the Contract of Loan before the trial court.<sup>46</sup> They relate that they objected to the presentation of the Memorandum dated October 21, 1999, which shows the supposed authority of the SSS. Moreover, they aver that SSS failed to prove that the signatories had the authority to enter into the contract of loan.<sup>47</sup> Also, the issue pertaining to the authority of the SSS officers was impliedly included in the pre-trial order.<sup>48</sup> Furthermore, they claim that the appellate court may rule on the issue of authority since said matter was raised as an error in the appeal.<sup>49</sup>

Additionally, petitioners claim that since the contract of loan is void, it cannot give rise to enforceable rights.<sup>50</sup> Petitioners further urge that estoppel cannot legitimize an act that is prohibited by law or is against public policy.<sup>51</sup> Thus, petitioners beseech that rescission is proper and the parties should be returned to their respective positions prior to the execution of the void contract of loan.<sup>52</sup> They implore that since the terms of the void contract have already been performed, the restoration of what has been given is in order.<sup>53</sup> Relatedly, petitioners also contend that since the main contract is void, it follows that the accessory contract of mortgage is likewise void.<sup>54</sup>

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<sup>40</sup> Id.

<sup>41</sup> Id. at 44.

<sup>42</sup> Id.

<sup>43</sup> Id. at 49.

<sup>44</sup> Id.

<sup>45</sup> Id. at 59.

<sup>46</sup> Id. at 50.

<sup>47</sup> Id. at 51.

<sup>48</sup> Id. at 59.

<sup>49</sup> Id.

<sup>50</sup> Id. at 60.

<sup>51</sup> Id. at 60-61.

<sup>52</sup> Id. at 53.

<sup>53</sup> Id.

<sup>54</sup> Id.



On the other hand, SSS urges for the dismissal of the petition as it raises both questions of fact and law.<sup>55</sup> It argues that the issue pertaining to its authority to enter into the contract of loan and the legality of the foreclosure of the real estate mortgage are matters of fact.<sup>56</sup>

Anent the substantive matters, SSS retorts that the contract of loan was validly executed.<sup>57</sup> It maintains that its officials were authorized to enter into said contract.<sup>58</sup> Likewise, it avers that petitioners voluntarily entered into the contract of loan without a scintilla of doubt as to its and its representatives' authority. Moreover, SSS points out that petitioners failed to raise the issue of lack of authority during the pre-trial and the trial of the case.<sup>59</sup> It surmises that the matter of authority has no nexus at all to the issues framed in the pre-trial order.<sup>60</sup> It bewails that a change of theory is violative of the tenets of fair play.<sup>61</sup>

Alternatively, SSS posits that assuming for the sake of argument that the matter pertaining to lack of authority is implicit in the issues of the case, the same may no longer be assailed since the petitioners admitted the genuineness and due execution of the contract of loan.<sup>62</sup> Hence, it insists that even granting that its act was *ultra vires* and thus void, petitioners are estopped from assailing the loan.<sup>63</sup> Lastly, SSS counters that the foreclosure of the mortgaged properties was but a necessary consequence of the petitioners' non-payment of its mortgage indebtedness.<sup>64</sup>

### **Ruling of the Court**

*The petition is impressed with merit.*

#### ***Parameters of Judicial Review Under Rule 45 and the Exceptions Thereto***

It must be noted at the outset that the authority of SSS to enter into the contract of loan and the legality of the foreclosure of the real estate mortgage are factual issues.<sup>65</sup> As a general rule, factual matters are not the proper subject of an appeal by *certiorari*,<sup>66</sup> as it is not the Court's function to analyze or weigh

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<sup>55</sup> Id. at 410.

<sup>56</sup> Id. at 60.

<sup>57</sup> Id. at 412.

<sup>58</sup> Id.

<sup>59</sup> Id. at 412-413.

<sup>60</sup> Id. at 413.

<sup>61</sup> Id. at 419.

<sup>62</sup> Id.

<sup>63</sup> Id. at 419-420.

<sup>64</sup> Id. at 424.

<sup>65</sup> Id. at 60.

<sup>66</sup> *Miro v. Vda. De Erederos, et al.*, 721 Phil. 772, 785 (2013).

the evidence which has been considered in the proceedings below.<sup>67</sup>

Nevertheless, a review of the factual findings is justified under the following circumstances:

(i) when the findings are grounded entirely on speculations, surmises or conjectures; (ii) when the inference made is manifestly mistaken, absurd or impossible; (iii) when there is grave abuse of discretion; (iv) when the judgment is based on a misapprehension of facts; (v) when the findings of fact are conflicting; (vi) when in making its findings[,] the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (vii) when the findings are contrary to that of the trial court; (viii) when the findings are conclusions without citation of specific evidence on which they are based; (ix) when the facts set forth in the petition[,] as well as in the petitioner's main and reply briefs[,] are not disputed by the respondent; (x) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [or] (xi) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.<sup>68</sup>

The conflicting findings between the RTC and the CA warrant a re-evaluation of the facts in the instant case.

***Authority of the SSS and its officers to enter into the contract of loan.***

Significantly, a government contract is entered into by public officers acting on behalf of the State.<sup>69</sup> A government contract is perfected only upon approval by competent authority, where such approval is required. The contracting officer functions as an agent of the government for the purpose of making the contract. There arises a principal-agent relationship between the government on the one hand, and the contracting officer on the other. The latter possesses only actual agency authority, which means that said officer's contracting power exists only because of and by virtue or authority of a law creating and conferring it. Consequently, said officer may make only such contract as he/she is authorized to make. In turn, the government is bound only to the extent of the power it has actually given to its officer-agent. It goes without saying then, that, conformably to a fundamental principle in agency, the act of the agent in entering into agreements or contracts beyond the scope

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<sup>67</sup> Id.

<sup>68</sup> *De Leon v. Maunlad Trans Inc., et al.*, 805 Phil. 531, 538-539 (2017).

<sup>69</sup> *Sargasso Construction & Development Corp./Pick & Shovel, Inc./Atlantic Erectors, Inc. (Joint Venture) v. PPA*, 637 Phil. 259, 274-275 (2010), citing Cobacha, Agapito P. and Lucenario, Domingo O, *Law on Public Bidding and Government Contracts*, 1960, p. 283, citing *People v. Palmer*, 35 N.Y.S. 222, 14 Misc. 41.

of his/her actual authority does not bind or obligate the government.<sup>70</sup>

In relation, the authority of the SSS to enter into contracts and other transactions is conferred by its charter R.A. No. 1161, as amended in 1997 by R.A. No. 8282, and further amended in 2018 by R.A. No. 11199.<sup>71</sup> It bears noting that at the time the contract of loan was entered into, the law in force was R.A. No. 8282.

Remarkably, Section 3(b) of R.A. No. 8282 ordains that the general conduct of the operation and management functions of the SSS shall be vested in its President who shall serve as the chief executive officer immediately responsible for carrying out the program of the SSS and the policies of the Commission. Interestingly, the same rule regarding the powers of the SSS' President has been retained in Section 3(b) of R.A. No. 11199.

Despite the clear tenor of the SSS' charter, the October 28, 1999 contract of loan was not signed by the SSS President, but rather, by its EVP Veroy and SVP Solilapsi. Albeit high-ranking officers of the SSS, they are not the ones authorized by law to enter into contracts on behalf of the SSS. Nowhere in the contract of loan does the signature or approval of the President appear.

Unfortunately, this glaring lack of authority was not dispelled during the trial of the case. The SSS failed to present evidence proving that its President or the SSC delegated and approved the authority of EVP Veroy and SVP Solilapsi to enter into the contract with WPI. It cannot be gainsaid that the authority of government officials to represent the government in any contract must proceed from an express provision of law or a valid delegation of authority.<sup>72</sup> Without such actual authority possessed by EVP Veroy and SVP Solilapsi, there could be no real consent, much less, a perfected contract to speak of.

It is interesting to note that during the trial, SSS presented the Memorandum dated October 21, 1999 to show proof of SSS' authority to enter into the contract of loan. However, said Memorandum merely referred to SSC Resolution No. 873 dated October 20, 1999, which was however not presented in the trial court. SSC Resolution No. 873, as well as SSC Resolution No. 566 dated July 13, 1999, which were alleged as bases for the authority of the SSS were not presented before the trial court.

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<sup>70</sup> Id. at 278.

<sup>71</sup> AN ACT FURTHER STRENGTHENING THE SOCIAL SECURITY SYSTEM THEREBY AMENDING FOR THIS PURPOSE, REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW.

<sup>72</sup> *Sargasso Construction & Development Corp./Pick & Shovel, Inc./Atlantic Erectors, Inc. (Joint Venture) v. PPA*, supra note 69 at 279.

Aside from failing to prove the authority of SSS' signatories to the contract of loan, it is further noted that said contract was entered into in stark violation of the rule pertaining to the investment of SSS' reserve funds. Particularly, Section 26 of R.A. No. 8282 allows the SSC to invest the reserve funds for limited purposes and under stringent conditions:

**SEC. 26. Investment of Reserve Funds.** - All revenues of the SSS that are not needed to meet the current administrative and operational expenses incidental to the carrying out of this Act shall be accumulated in a fund to be known as the "Reserve Fund." Such portions of the Reserve Fund as are not needed to meet the current benefit obligations thereof shall be known as the "Investment Reserve Fund" which the Commission shall manage and invest with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would exercise in the conduct of an enterprise of a like character and with similar aims. Pursuant thereto, and in line with the basic principles of safety, good yield and liquidity, the Commission shall invest the funds to earn an annual income not less than the average rates of treasury bills or any other acceptable market yield indicator in any or in all of the following:

(a) In bonds, securities, promissory notes or other evidence of indebtedness of the Government of the Philippines, or in bonds, securities, promissory notes or other evidence of indebtedness to which the full faith, credit and unconditional guarantee of the Government of the Philippines is pledged;

(b) In bonds, securities, promissory notes or other evidence of indebtedness of the Government of the Philippines, or any agencies or instrumentalities to finance domestic infrastructure projects such as roads, bridges, ports, telecommunications, and other similar projects: *Provided*, That the instruments issued by an agency or instrumentality of the government shall be guaranteed by the Government of the Philippines or any government financial institution or acceptable multilateral agency: *Provided, further*, That the SSS shall have priority over the revenues of the projects: *Provided, finally*, That such investments shall not exceed thirty percent (30%) of the Investment Reserve Fund;

(c) In bonds, securities, promissory notes or other evidence of indebtedness of government financial institutions or government corporations with acceptable credit or guarantee: *Provided*, That such investments shall not exceed thirty percent (30%) of the Investment Reserve Fund;

(d) In bonds, securities, promissory notes or other evidence of indebtedness of any bank doing business in the Philippines and in good standing with the Bangko Sentral ng Pilipinas to finance loans to private corporations doing business in the Philippines, including schools, hospitals, small-and-medium scale industries, cooperatives and non-governmental organizations, in which case the collaterals or securities shall be assigned to the SSS under such terms and conditions as the Commission may prescribe: *Provided*, That in the case of bank deposits, they shall not exceed

at any time the unimpaired capital and surplus or total private deposits of the depository bank, whichever is smaller: *Provided, further*, That said bank shall first have been designated as a depository for this purpose by the Monetary Board of the Bangko Sentral ng Pilipinas: *Provided, finally*, That such investments shall not exceed forty percent (40%) of the Investment Reserve Fund;

(e) In bonds, securities, promissory notes or other evidence of indebtedness of shelter agencies of the National Government or financial intermediaries to finance housing loans of members; and in long-term direct individual or group housing loans giving priority to the low-income groups, up to a maximum of ninety percent (90%) of the appraised value of the properties to be mortgaged by the borrowers; and

“In short and medium term loans to members such as salary, educational, livelihood, marital, calamity and emergency loans: *Provided*, That not more than thirty five percent (35%) of the Investment Reserve Fund at any time shall be invested for housing purposes: *Provided, further*, That not more than ten percent (10%) of the Investment Reserve Fund shall be invested in short and medium term loans;

(f) In bonds, securities, promissory notes or other evidence of indebtedness of educational or medical institutions to finance the construction, improvement and maintenance of schools and hospitals and their equipment and facilities: *Provided*, That such investments shall not exceed ten percent (10%) of the Investment Reserve Fund;

(g) In real estate property, including shares of stocks involving real estate property, and investment secured by first mortgages on real estate or other collaterals acceptable to the SSS: *Provided*, That such projects and investments shall, in the determination of the Commission, redound to the benefit of the SSS, its members, as well as the general public: *Provided, further*, That investment in real estate property, including shares of stocks involving real estate property shall not exceed five percent (5%) of the Investment Reserve Fund: *Provided, finally*, That investments in other income earning projects and investments secured by first mortgages or other collaterals shall not exceed twenty five percent (25%) of the Investment Reserve Fund;

(h) In bonds, debentures, securities, promissory notes or other evidence of indebtedness of any prime corporation or multilateral institutions to finance domestic projects: *Provided*, That the issuing or assuming entity or its predecessors shall not have defaulted in the payment of interest on any of its securities and that during each of any three (3) including the last two (2) of the five (5) fiscal years next preceding the date of acquisition by the SSS of such bonds, debentures or other evidence of indebtedness, the net earnings of the issuing or assuming institution available for its fixed charges, as defined in this Act, shall have been not less than one and one-quarter times the total of its fixed charges for such year: *Provided, further*, That such investments shall not exceed thirty percent (30%) of the Investment Reserve Fund;

(i) In preferred or common shares of stocks listed or about to be listed in the stock exchange or options or warrants to such stocks or, subject to prior

approval of the Bangko Sentral ng Pilipinas, such other risk management instruments of any prime or solvent corporation or financial institution created or existing under the laws of the Philippines with proven track record of profitability over the last three (3) years and payment of dividends at least once over the same period: *Provided*, That such investments shall not exceed thirty percent (30%) of the Investment Reserve Fund;

(j) In domestic or foreign mutual funds in existence for at least three (3) years; *Provided*, That such investments shall not exceed twenty percent (20%) of the Investment Reserve Fund: *Provided, further*, That investments in foreign mutual funds shall not exceed one percent (1%) of the Investment Reserve Fund in the first year which shall be increased by one percent (1%) for each succeeding year, but in no case shall it exceed seven and one-half percent (7.5%) of the Investment Reserve Fund;

(k) In foreign currency deposits or triple "A" foreign currency denominated debts, prime and non-speculative equities, and other Bangko Sentral ng Pilipinas approved financial instruments or other assets issued in accordance with the existing laws of the countries where such financial instruments are issued: *Provided*, That these instruments or assets are listed in bourses of the respective countries where these instruments or assets are issued: *Provided, further*, That the issuing company has proven track of record of profitability over the last three (3) years and a record of regular dividend pay-out over the same period: *Provided, finally*, That such investments shall not exceed one percent (1%) of the Investment Reserve Fund in the first year which shall be increased by one percent (1%) for each succeeding year, but in no case shall it exceed seven and one-half percent (7.5%) of the Investment Reserve Fund;

(l) In loans secured by such collaterals like cash, government securities or guarantees of multilateral institutions: *Provided*, That such investments shall not exceed thirty percent (30%) of the Investment Reserve Fund; and

(m) In other Bangko Sentral ng Pilipinas approved investment instruments with the same intrinsic quality as those enumerated in paragraphs (a) to (l) hereof, subject to the policies and guidelines which the Commission may formulate.

No portion of the Investment Reserve Fund or income thereof shall accrue to the general fund of the National Government or to any of its agencies or instrumentalities, including government-owned or controlled corporations, except as may be allowed under this Act: *Provided*, That no portion of the Investment Reserve Fund shall be invested for any purpose or in any instrument, institution or industry over and above the prescribed cumulative ceilings as follows:

- 40% in private securities
- 35% in housing
- 30% in real estate related investments
- 10% in short and medium-term member loans
- 30% in government financial institutions and corporations
- 30% in infrastructure projects
- 15% in any particular industry

7.5% in foreign-currency denominated investments<sup>73</sup>

As exhaustive as the list is, it bears noting that the contract of loan does not fall under any of the allowed transactions. Under the rules of statutory construction, the express mention of one person, thing, or consequence implies the exclusion of all others – *expressio unius est exclusio alterius*. Thus, where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters. This proceeds from the premise that the legislature would not have made a specified enumeration in a statute had its intention been not to restrict the meaning and confine the terms to those expressly mentioned.<sup>74</sup>

In any event, even assuming *arguendo* that the contract of loan may tangentially be classified under investments in real estate under Section 26(g), or loans secured by such collaterals like cash, government securities or guarantees of multilateral institutions under Section 26(l), still, SSS failed to prove that the loan was granted in accordance with the conditions set forth therein. Particularly, SSS and its witnesses did not offer any testimonial or documentary evidence to show that the investment will redound to the benefit of the SSS, its members and the general public; that the investment in real estate and/or shares of stock involving real estate did not exceed five percent (5%) of the investment reserve fund; and that the investment secured by collaterals did not exceed twenty-five (25%) percent of the investment reserve fund, to fall within Section 26(g). In the same vein, SSS did not present proof that the investment did not exceed thirty percent (30%) of the investment reserve fund under Section 26(l). Certainly, the Court cannot surmise on SSS' compliance with said essential conditions.

It is an elementary principle that the law is deemed written into every contract. The provisions of positive law which regulate contracts are deemed included therein and shall limit and govern the relations between the parties. Consequently, R.A. No. 8282, being SSS' charter is presumed to be incorporated into every contract entered into by SSS. Likewise, as a corporate body, SSS may only exercise its powers within the provisions of its charter. Corporate acts that are outside the express definitions under the law or articles of incorporation or those committed outside the object for which a corporation is created are *ultra vires*.<sup>75</sup> Hence, the contract of loan which was entered into in violation of Sections 3(b) and 26 of R.A. No. 8282 are *ultra vires*.

An *ultra vires* act may be classified as either illegal or merely *ultra vires*. The former contemplates the doing of an act which is contrary to law, morals,

<sup>73</sup> REPUBLIC ACT NO. 8282, Section 26.

<sup>74</sup> *De La Salle Araneta University v. Bernardo*, 805 Phil. 580, 601 (2017).

<sup>75</sup> *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas, et al.*, 776 Phil. 401, 450 (2016), citing *Republic v. Acoje Mining Company, Inc.*, 117 Phil. 379, 383 (1963).

or public order, or one that contravenes some rules of public policy or public duty, and is, like similar transactions between individuals, void. It cannot serve as a basis of a court action, nor acquire validity by performance, ratification, or estoppel. On the other hand, a mere *ultra vires* act is that which is not illegal and void *ab initio*, but is merely outside of the scope of the articles of incorporation, and is thus, merely voidable and may become binding and enforceable when ratified by the stockholders.<sup>76</sup>

In this case, the contract of loan is an illegal *ultra vires* act. The execution of the loan contract was done in stark violation of R.A. No. 8282. As exhaustively discussed, it was entered into without the approval of the SSS' President which is clearly required under Section 3(b). Worse, it embodied a transaction that was not authorized under Section 26 of the same law. Patently, said contract of loan transgressed R.A. No. 8282, thereby rendering it *ultra vires* and void.

Correspondingly, *ultra vires* acts or those that are clearly beyond the scope of one's authority are null and void and cannot be given any effect. The doctrine of estoppel cannot operate to give effect to an act which is otherwise null and void or *ultra vires*.<sup>77</sup> Estoppel cannot be predicated on an illegal act.<sup>78</sup>

***The Court cannot ignore the issue of authority and validity on account of technicalities.***

Interestingly, rather than prove the validity of the contract of loan and the authority of its representatives to the said loan, SSS conveniently diverts the issue by claiming that the petitioners are barred from contesting these matters which were purportedly not raised during the trial. It avers that the matter pertaining to the authority of the officers was belatedly raised in the petitioners' Memorandum before the trial court, in violation of its right to due process. To prove its point, SSS argues that the issue regarding the authority of its representatives was not included in the Pre-Trial Order or raised during the trial of the case.

**The Court is not persuaded.**

The issue regarding the validity of the contract of loan is the meat of the complaint for sum of money. It is a fundamental issue that may not be buried in technicalities. Without the proper authority of the officers, the contract

<sup>76</sup> Id. at 445, citing *Pirovano, et al. v. De la Rama Steamship Co.*, 96 Phil. 335, 360 (1954).

<sup>77</sup> *Son, et al. v. University of Santo Tomas, et al.*, 830 Phil. 243, 263 (2018), citing *Acebedo Optical Company, Inc. v. Court of Appeals*, 385 Phil. 956, 978 (2000).

<sup>78</sup> *Son, et al. v. University of Santo Tomas, et al.*, supra note 77.



cannot be the source of any right. In the same vein, the use of funds not sanctioned by the law, renders the contract of loan void.

At any rate, the non-inclusion in the Pre-Trial Order of the issue regarding the authority of SSS' representatives does not bar the court from resolving such matter. Jurisprudence holds that a pre-trial order is not meant to catalogue each issue that the parties may take up during the trial. Rather, issues not included in the pre-trial order may be considered if they are impliedly included in the issues raised or inferable by necessary implication from the issues asserted.<sup>79</sup>

On this score, the issue regarding the validity of the contract of loan necessarily includes all matters relating to the authority to enter, as well as the purpose or subject matter of the said contract. These constitute material information to resolve the ultimate question of liability.

In the same vein, the authority of SSS to enter into the contract, and the legality of the contract are primordial issues. SSS' right to enforce its claim on the loan obligation, and its entitlement to damages hinge on the validity of the contract of loan.

Equally important, the issue pertaining to the validity of the contract of loan was contested during the trial. During the proceedings, SSS presented the contract of loan for the purpose of proving its binding effect. In response to said offer, petitioners pointed out that SSS failed to present evidence to prove its authority to contract with WPI. Also, in the presentation of the Memorandum dated October 21, 1999, petitioners objected to the supposed authority of SSS.

Accordingly, it is evident that the issue regarding the authority of SSS to contract with the petitioners was intrinsically included. In fact, it was a matter that SSS faced head on, albeit feebly. SSS cannot claim that it was not adequately prepared to meet the defense presented by the petitioners, as it had every opportunity to present proof of its supposed authority; but it failed to do so. Thus, the RTC correctly ruled on the issue of the validity of the contract of loan.

Furthermore, matters pertaining to the authority of SSS officers, the subject matter of the contract of loan, and the legality of the investment of the reserve fund, are conferred by law. Courts shall not turn a blind eye against the express provisions of the law. In fact, courts are allowed to take mandatory judicial notice of legislative acts:

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<sup>79</sup> *Velasco v. Hon. Apostol*, 255 Phil. 219, 222 (1989); *LCK Industries Inc., et al. v. Planters Development Bank*, 563 Phil. 957, 971 (2007).

*Section 1. Judicial notice, when mandatory.* – A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, official acts of the legislative, executive and judicial departments of the National Government of the Philippines, the laws of nature, the measure of time, and the geographical divisions.<sup>80</sup>

To stress, the Contract of Loan was executed in violation of the provisions of R.A. No. 8282. The Court cannot authorize a contract that was executed in stark disregard of the law. Considering that the main contract of loan is void, the mortgage, which is merely an accessory thereof, is perforce void.

Additionally, if a void contract has already been performed, the restoration of what has been given is in order.<sup>81</sup> This principle springs from Article 22 of the Civil Code which states that “every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same.” Accordingly, the restitution of what each party has given is a consequence of a void and inexistent contract.<sup>82</sup>

Thus, for the sake of justice and equity, and in consonance with the salutary principle of non-enrichment at another’s expense, the parties must restore to each other what they had received by virtue of the contract of loan. They should not be allowed to benefit from entering into the contract of loan in violation of the SSS law, and must be restored to their relative positions prior to the execution of said contract. In this respect, WPI must return the ₱375,000,000.00 it received from SSS under the contract of loan, subject to a legal interest of twelve percent (12%) from October 28, 1999, the date of the void contract<sup>83</sup> to June 30, 2013, and six percent (6%) legal interest from July 1, 2013 until full payment.<sup>84</sup>

In turn, SSS must return to WPI the amount of ₱35,827,695.87, which the latter paid to the former, with legal interest of twelve percent (12%) from the dates that the individual payments<sup>85</sup> were remitted until June 30, 2013, and six percent (6%) legal interest from July 1, 2013 until full payment.<sup>86</sup> Likewise,

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<sup>80</sup> RULES OF EVIDENCE.

<sup>81</sup> *Tan v. Hosana*, 780 Phil. 258, 268 (2016), citing *Nool v. Court of Appeals*, 342 Phil. 106, 110 (1997).

<sup>82</sup> *Id.*

<sup>83</sup> *Rollo*, p. 2.

<sup>84</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

<sup>85</sup> *Rollo*, p. 14; 109. WPI’s total payment of ₱35,827,695.87 consisted of ₱10,875,000.00 paid on May 16, 2000; ₱9,952,695.87 paid on July 31, 2001; ₱5,000,000.00 paid on December 20, 2001; and ₱10,000,000.00 paid on January 10, 2002.

<sup>86</sup> *Nacar v. Gallery Frames*, supra note 84.

SSS must (i) reconvey to WII the mortgaged properties which consist of the two parcels of land covered by TCT Nos. N-153395 and N-153396, along with the payment of all income derived from said properties; (ii) return to WGI the stock certificates representing 235,000,000 shares of WPI with the fruits and dividends received therefrom; (iii) return to WII the stock certificates representing the 80,000,000 shares of WII with the fruits and dividends received therefrom. All fruits and income earned from the properties covered by TCT Nos. N-153395 and N-153396, as well as the afore-mentioned stock certificates, must be paid with a legal interest of twelve percent (12%) from October 28, 1999 to June 30, 2013, and six percent (6%) legal interest from July 1, 2013 until full payment.<sup>87</sup> On this score, SSS is further ordered to provide the necessary data regarding the fruits and income derived from TCT Nos. N-153395 and N-153396, stock certificates representing the 235,000,000 shares of WPI, and stock certificates representing the 80,000,000 shares of WII, for the proper execution of the judgment in accordance with the Court's ruling.

**WHEREFORE**, premises considered, the petition is **GRANTED**. The August 30, 2019 Decision of the Court of Appeals in CA-G.R. CV No. 104941 is **REVERSED and SET ASIDE**. In lieu thereof, a new one is **ENTERED** decreeing as follows:

The October 28, 1999 Contract of Loan with Real Estate Mortgage with Option to Convert to Shares of Stock, and all accessory contracts appurtenant thereto are **DECLARED** null and void;

The Certificate of Sale dated September 19, 2003 is **DECLARED** null and void;

The parties are hereby ordered, in mutual restitution, to return what has been received under the Contract of Loan with Real Estate Mortgage and Option to Convert to Shares of Stock, together with any income, fruits or dividends realized therefrom, as follows:

1. Waterfront Philippines, Inc. is **ORDERED to PAY** Social Security System ₱375,000,000.00 subject to twelve percent (12%) legal interest from October 28, 1999 to June 30, 2013, and six percent (6%) legal interest from July 1, 2013 until full payment;

2. Social Security System is **ORDERED** to:

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<sup>87</sup> Id.

a. **RETURN** to Waterfront Philippines, Inc. the amount of ₱35,827,695.87, subject to a legal interest of twelve percent (12%) from the dates that the individual payments were remitted until June 30, 2013, and six percent (6%) legal interest from July 1, 2013 until full payment;

b. **RECONVEY** to Wellex Industries, Inc. the properties covered by Transfer Certificate of Title Nos. N-153395 and N-153396, with all the income derived from said properties;

c. **RETURN** to Wellex Industries, Inc. the original copies of Transfer Certificate of Title Nos. N-153395 and N-153396;

d. **RETURN** to Wellex Group, Inc. the stock certificates representing 235,000,000 shares of Waterfront Philippines, Inc. with the fruits and dividends received therefrom;

e. **RETURN** to Wellex Industries, Inc. the stock certificates representing the 80,000,000 shares of WII with the fruits and dividends received therefrom;

f. Any income earned from the properties covered by Transfer Certificate of Title Nos. N-153395 and N-153396, and any dividends received from the stock certificates, must be returned with a legal interest of twelve percent (12%) from October 28, 1999 to June 30, 2013, and six percent (6%) legal interest from July 1, 2013 until full payment.<sup>88</sup>

Upon finality of this Decision, let the records of the case be immediately transmitted to the Regional Trial Court for execution. Thereafter, the parties are hereby **ORDERED** to:

1. **SUBMIT** to the trial court a list of all fruits, income, or dividends received by virtue of the Contract of Loan with Real Estate Mortgage and Option to Convert to Shares of Stock, consistent with the preceding paragraph;

2. **PROVIDE** a computation of all amounts to be paid and a list of all properties to be returned by each party, together with a proposed schedule of payments and reconveyance, over a period which shall not exceed six (6) months from the finality of this Decision, to be approved by the trial court; and


3. **SUBMIT** a Report to the Court on each party's compliance with the execution of this Decision.

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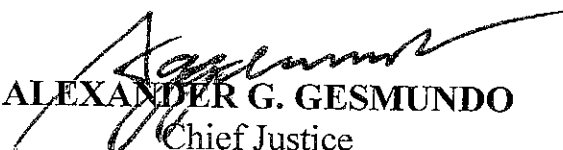
<sup>88</sup> Id.

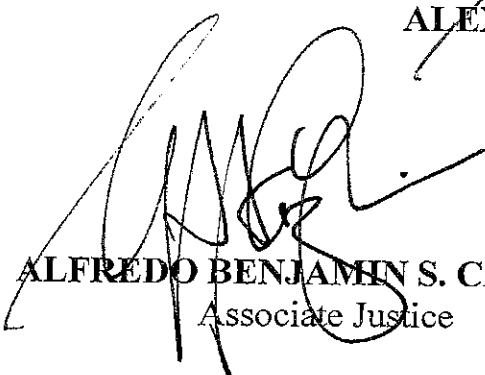
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**SO ORDERED.**

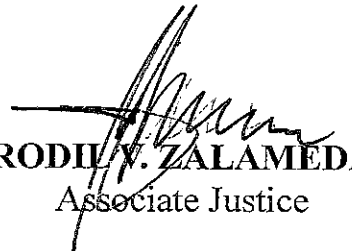
  
**SAMUEL H. GAERLAN**  
Associate Justice

WE CONCUR:

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

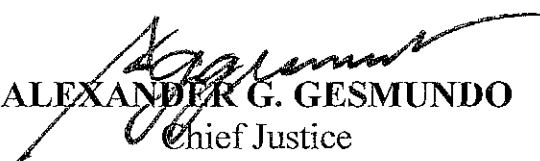
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**ROSLARI D. CARANDANG**  
Associate Justice

  
**RODILY V. ZALAMEDA**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

