



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

UNIVERSAL
 CORPORATION,

WEAVERS

G.R. No. 233990

Petitioner,

Present:

- versus -

LEONEN, J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 LOPEZ, J., JJ.

COMMISSIONER
 INTERNAL REVENUE,

OF

Promulgated:

Respondent.

May 12, 2021

MisDCCBatt

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DECISION

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court in relation to Rule 16 of the Revised Rules of the Court of Tax Appeals, seeking to reverse the Decision² dated February 9, 2017 and the Resolution³ dated August 31, 2017 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 1348 which reversed and set aside the Decision and the Resolution of the CTA First Division dated May 11, 2015 and August 10, 2015, respectively.

¹ *Rollo*, pp. 12-40.

² *Id.* at 41-53; penned by Associate Justice Ma. Belen M. Ringpis-Liban, with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla and Catherine T. Manahan, concurring.

³ *Id.* at 58-61.

The Facts

On December 3, 2007, Zenaida G. Garcia, Officer-in-Charge, Regional Director (RD) of the Bureau of Internal Revenue (BIR), Revenue Region No. 4, issued Letter of Authority No. 000-7465 authorizing, the examination of the books of accounts and other accounting records of the internal revenue taxes of Universal Weavers Corporation (petitioner) for the period covering January 1, 2006 to December 31, 2006.⁴

On December 6, 2007, Revenue District Office (RDO) No. 20 requested certain documents and records from petitioner⁵ and thereafter issued Notices for Informal Conference.⁶

Petitioner executed several notarized waivers of the statute of limitations to extend the prescriptive period of assessment for internal revenue taxes due in taxable year ending December 31, 2006.⁷

On September 16, 2009, Anita P. Sabado (Sabado), petitioner's Assistant Vice-President–Plant Controller, executed the **first waiver**, but the same did not specify a definite date within which the Commissioner of Internal Revenue (CIR) may assess petitioner's tax liability.⁸

On November 5, 2010, Wilfrido C. Rodriguez, petitioner's Director, executed the **second waiver**, extending the period of assessment of taxes until December 31, 2011.⁹

On August 12, 2010, the RD of Revenue Region No. 4 issued a Preliminary Assessment Notice (PAN), assessing petitioner of deficiency income tax, expanded withholding tax, and documentary stamp tax for the taxable year 2006. Petitioner received the PAN on September 9, 2011.¹⁰

In a letter dated September 23, 2011, petitioner filed its administrative protest on the PAN and further requested for the immediate reinvestigation and/or reconsideration thereof.¹¹

On October 18, 2011, Sabado executed the **third waiver**, extending the period of assessment of taxes until December 31, 2012.¹²

⁴ Id. at 14.

⁵ *First Request for Presentation of Records*, dated December 6, 2007.

⁶ *Rollo*, pp. 14-15.

⁷ Id. at 15.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

On January 13, 2012, petitioner received the Formal Letter of Demand dated January 3, 2012 with attached assessment notices from the BIR for its alleged deficiency taxes.¹³

On February 10, 2012, petitioner filed its protest against the Formal Letter of Demand and submitted its supporting documents on April 10, 2012.¹⁴

On November 5, 2012, petitioner filed a Petition for Review before the CTA.¹⁵

The Ruling of the CTA First Division

On May 11, 2015, the CTA First Division rendered a Decision with the dispositive portion as follows:

WHEREFORE, premises considered, the Petition for Review is hereby GRANTED. Accordingly, the Final Demand and Final Assessment Notice No. 020-0704010876 is hereby ordered CANCELLED.

SO ORDERED.¹⁶

The CTA First Division recognized the following defects in the waivers:

1. The agreed date between the BIR and the petitioner, within which the former may assess and collect revenue taxes, the date of execution of the waiver, and the date of BIR's acceptance were not specified in the first waiver;
2. The date when Revenue District Officer, Atty. Abencio T. Torres, accepted the waiver was not indicated in the second waiver; and
3. The date when Revenue District Officer, Roberto S. Bucoy, accepted the waiver was not provided in the third waiver.¹⁷

The CIR filed a Motion for Reconsideration, but the same was denied in a Resolution dated August 10, 2015. The *fallo* of the Resolution reads:

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id. at 44.

¹⁷ Id. at 50-51.

WHEREFORE, in view of the foregoing, [CIR's] Motion for Reconsideration (Re: Decision dated 11 May 2015) is DENIED for lack of merit.

SO ORDERED.¹⁸

The Ruling of the CTA *En Banc*

On February 9, 2017, the CTA *En Banc* rendered a Decision,¹⁹ with the dispositive portion as follows:

WHEREFORE, premises considered, the Petition for Review is GRANTED. Accordingly, the Decision promulgated on May 11, 2015 and the Resolution promulgated on August 10, 2015 are hereby REVERSED AND SET ASIDE.

Let this case be remanded to the Court in Division for further proceedings to determine and rule on the merits of [petitioner's] petition in seeking nullification of the FLD and Assessment Notices dated January 3, 2012.

SO ORDERED.²⁰

The CTA *En Banc* followed the Court's ruling in the case of *Commissioner of Internal Revenue v. Next Mobile, Inc.*²¹ and declared that the waivers executed by petitioner cannot be invalidated. It held that even if there was noncompliance with the provisions of BIR Revenue Memorandum Order (RMO) No. 20-90 and Revenue Delegation Administrative Order (RDAO) No. 05-01, petitioner was already estopped from claiming that the three waivers are invalid and that the CIR's right to assess has prescribed because of petitioner's acts that persuaded the BIR to postpone the issuance of the assessments.²²

The CTA *En Banc* opined that both petitioner and the CIR were at fault and accountable for the defects in the three waivers since they continued to transact with each other despite such infirmities. It noted that petitioner persuaded the BIR to delay the issuance of the assessment by executing the invalid waivers. Meanwhile, the BIR was negligent in complying with the requirements of valid waivers as provided in the National Internal Revenue Code (NIRC) and the existing rules and regulations. Further, petitioner did not question the validity of the waivers and the running of the prescriptive period for the assessment of their deficiency taxes in its protest letter filed before the BIR and in its petition before the CTA First Division.²³

¹⁸ Id. at 44.

¹⁹ Id. at 41-53.

²⁰ Id. at 51-52.

²¹ 774 Phil. 428 (2015).

²² *Rollo*, p. 51.

²³ Id.

The CTA *En Banc* concluded that the application of estoppel is necessary to prevent undue injury to the government because of the cancellation of the assessment of the petitioner's deficiency taxes.²⁴

Petitioner moved for the reconsideration of the February 9, 2017 Decision of the CTA *En Banc*. However, the same was denied in a Resolution²⁵ dated August 31, 2017, with the dispositive portion as follows:

WHEREFORE, no compelling reason to reverse the ruling of the Court in the Assailed decision, the [petitioner's] "Motion for Reconsideration" is DENIED for lack of merit.

SO ORDERED.²⁶

Hence, the instant petition.

The Arguments of the Parties

Petitioner argues that the CIR's right to assess has already prescribed considering that the first waiver failed to comply with RMO No. 20-90 and RDAO No. 05-01.²⁷ It avers that the CIR cannot heavily rely on *Next Mobile* and claim the parties to be equally at fault since it is the duty of the BIR to indicate the date of acceptance of the waiver.²⁸ It claims that it should not be penalized for the negligence of the BIR, which failed to ensure that all the requirements for a valid waiver were met.²⁹ Finally, petitioner submits that it is not precluded from raising the invalidity of the waivers pursuant to Section 1, Rule 9 of the Rules of Court.³⁰

The CIR, through the Office of the Solicitor General, asserts that the execution of the second and third waivers effectively cured or ratified any formal defect on the waiver previously executed.³¹ It counters that, assuming for the sake of argument that the waivers were indeed defective, the infirmities should not prejudice the interest of the government when it was most probably a mere inadvertence on the part of the revenue officer, who should have indicated the relevant details.³² It further points out that both parties continued dealing with each other on the strength of these waivers, without bothering to cure the infirmities extant in the documents. Worse,

²⁴ Id.

²⁵ Id. at 58-61.

²⁶ Id. at 61.

²⁷ Id. at 26.

²⁸ Id. at 28-30.

²⁹ Id. at 32.

³⁰ Id. at 34.

³¹ Id. at 74.

³² Id. at 74-75.

petitioner did not even question the validity of the waivers.³³ The CIR maintains that it would be the height of injustice on the part of the government if the waiver would be invalidated after petitioner had benefitted from the extension of time granted to submit supporting documents required in the investigation of its internal revenue tax liabilities.³⁴

The Issue

Whether or not the CIR's right to assess the deficiency taxes of petitioner has already prescribed.

The Court's Ruling

The petition is meritorious.

The prescriptive period for assessment and collection of internal revenue taxes is governed by Section 203³⁵ of the 1997 NIRC. The said provision limits the BIR's authority to assess within three years after the last day prescribed by law for the filing of the return or from the day the return was filed, whichever comes later. Upon the lapse of this period, the assessment issued shall no longer be valid and effective³⁶ as it is already time-barred.

The period to assess and collect deficiency taxes may be extended upon the execution of a valid waiver before the expiration of the original three-year prescriptive period. The CIR and the taxpayer shall execute a written agreement to extend the original period of assessment in accordance with Section 222(b) of the NIRC.³⁷ The period so agreed upon may be further extended by a subsequent written agreement provided the same is made before the expiration of the period previously agreed upon.³⁸

³³ Id. at 79-80.

³⁴ Id. at 80.

³⁵ SEC. 203. *Period of Limitation Upon Assessment and Collection.* – Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: *Provided,* That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

³⁶ *Commissioner of Internal Revenue v. Systems Technology Institute, Inc.*, 814 Phil. 933, 941 (2017).

³⁷ See *Nava v. Commissioner of Internal Revenue*, 121 Phil. 117 (1965).

³⁸ SEC. 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* –

x x x x

- (b) If before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.

In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*,³⁹ the Court enunciated that “a waiver of the statute of limitations under the NIRC, to a certain extent, is a derogation of the taxpayers’ right to security against prolonged and unscrupulous investigations” conducted by revenue officers. Make no mistake, it is not a renunciation of the right to invoke the defense of prescription. “It is an agreement between the taxpayer and the BIR that the period to issue an assessment and collect the taxes due is extended to a date certain.”⁴⁰ It is, therefore, imperative that the waiver is carefully and strictly construed and duly compliant with the preset guidelines and procedural requirements prescribed by the BIR to serve its purpose of affording protection to the taxpayer.

To guide the revenue officers and the taxpayers in the proper execution of the waiver of the statute of limitations, RMO No. 20-90⁴¹ and RDAO No. 05-01⁴² were issued on April 4, 1990 and August 2, 2001, respectively. The revenue orders require that:

³⁹ 488 Phil. 218 (2004).

⁴⁰ Id. at 231-232.

⁴¹ April 4, 1990

REVENUE MEMORANDUM ORDER NO. 20-90

Subject: Proper Execution of the Waiver of the Statute of Limitations under the National Internal Revenue Code

To: All Internal Revenue Officers and Others Concerned

Pursuant to Section 223 of the Tax Code, internal revenue taxes may be assessed or collected after the ordinary prescriptive period, if before its expiration, both the Commissioner and the taxpayer have agreed in writing to its assessment and/or collection after said period. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon. This written agreement between the Commissioner and the taxpayer is the so-called Waiver of the Statute of Limitations. In the execution of said waiver, the following procedures should be followed:

1. The waiver must be in the form identified hereof. This form may be reproduced by the Office concerned but there should be no deviation from such form. The phrase “but not after _____ 19__” should be filled [out]. This indicates the expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription. The period agreed upon shall constitute the time within which to effect the assessment/collection of the tax in addition to the ordinary prescriptive period.

2. The waiver shall be signed by the taxpayer himself or his duly authorized representative. In the case of a corporation, the waiver must be signed by any of its responsible officials.

Soon after the waiver is signed by the taxpayer, the Commissioner of Internal Revenue or the revenue official authorized by him, as hereinafter provided, shall sign the waiver indicating that the Bureau has accepted and agreed to the waiver. The date of such acceptance by the Bureau should be indicated. Both the date of execution by the taxpayer and date of acceptance by the Bureau should be before the expiration of the period of prescription or before the lapse of the period agreed upon in case a subsequent agreement is executed.

3. The following revenue officials are authorized to sign the waiver:

x x x x

4. The waiver must be executed in three (3) copies, the original copy to be attached to the docket of the case, the second copy for the taxpayer and the third copy for the Office accepting the waiver. The fact of receipt by the taxpayer of his/her file copy shall be indicated in the original copy.

5. The foregoing procedures shall be strictly followed. Any revenue official found not to have complied with this Order resulting in prescription of the right to assess/collect shall be administratively dealt with.

This Revenue Memorandum Order shall take effect immediately.

(SGD.) JOSE U. ONG

Commissioner of Internal Revenue

⁴² Delegation of Authority to Sign and Accept the Waiver of the Defense of Prescription Under the Statute of Limitations.

1. The waiver must be in the form specified in RMO No. 20-90.
2. **The phrase “but not after _____ 19 ____” should be filled out** as it indicates the expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription.

The period agreed upon shall constitute the time within which to effect the assessment/collection of the tax in addition to the ordinary prescriptive period.

3. The waiver shall be signed by:
 - a. the taxpayer themselves or their duly authorized representative, or, in the case of a corporation, its responsible officials; and
 - b. the CIR or the revenue official authorized by them, indicating that the BIR has accepted and agreed to the waiver.

The date of the BIR’s acceptance should be indicated in the waiver.


The waiver shall be signed by the revenue officials authorized under RDAO No. 05-01.

4. The date of execution of the waiver by the taxpayer and date of BIR’s acceptance should be before the expiration of the period of prescription or before the lapse of the period agreed upon in case a subsequent agreement is executed.
5. The waiver should be duly notarized.
6. The waiver must be executed in three copies, namely, the original copy to be attached to the docket of the case, the second copy for the taxpayer, and the third copy for the office accepting the waiver.

The fact of receipt by the taxpayer of their file copy shall be indicated in the original copy.

7. The foregoing procedures shall be **strictly followed**.

Faithful compliance with the provisions of RMO No. 20-90 and RDAO 05-01 is enjoined to accord legal and binding effect to the waiver of statute of limitations.



Here, all three waivers were not in accordance with the requisites of RMO No. 20-90 and RDAO No. 05-01.

The first waiver did not reflect the agreed date within which the BIR may assess and collect taxes. RMO No. 20-90 explicitly states that the phrase “but not after _____ 19__” should be filled out. Petitioner’s failure to accurately state such material date logically implies that the first waiver is one of indefinite duration, in violation of Section 222(b) of the NIRC. Furthermore, the first waiver did not specify the date of execution of the agreement, which is necessary to determine whether the waiver was made well-within the period of prescription. Petitioner’s blunders in the accomplishment of the first waiver were too glaring to miss, yet the CIR still accepted the same without question. Thus, when the original three-year prescriptive period has lapsed, there was nothing more to extend and the execution of the second waiver was no longer necessary. There being no assessment having been issued, prescription has already set in.

It is likewise noteworthy to mention that the waivers executed by petitioner were tainted with a common fatal flaw, that is, the absence of the date of acceptance of the CIR or their authorized revenue officials. The Court has explained in *Commissioner of Internal Revenue v. FMF Development Corp.*⁴³ that the date of acceptance of the CIR must reflect in the waiver to determine whether it was validly accepted before the expiration of the original period or the period agreed upon in a subsequent waiver. Interestingly, this requirement has been completely disregarded by the CIR in all three occasions. They were remiss in their duty to exact compliance with RMO No. 20-90 and RDAO No. 05-01 and follow the mandates of these issuances.


The fact that RMO No. 20-90 and RDAO No. 05-01 require that they be strictly complied with underscores the mandatory nature of the procedural guidelines. They cannot be dispensed with or disregarded since “failure to fulfill any of the requisites renders a waiver defective and ineffectual.”⁴⁴ Consequently, the period to assess the tax liabilities is deemed never to have been extended and the government ultimately loses its right to enforce collection on the ground of prescription.

The CIR invokes the oft-repeated principle that taxes are the lifeblood of the government and contends that the equitable principles of *in pari delicto*, unclean hands, and estoppel should be applied to sustain the validity of defective waivers, citing as a basis the Court’s ruling in *Next Mobile*.⁴⁵ In said case, the taxpayer, after deliberately executing five waivers, insisted on

⁴³ 579 Phil. 174 (2008).

⁴⁴ *Commissioner of Internal Revenue v. Standard Chartered Bank*, 765 Phil. 102, 116 (2015).

⁴⁵ *Supra* note 21.



their invalidity due to the following defects: (1) the waivers were signed by an employee without any notarized written authority from the Board of Directors; (2) the dates of the acceptance by the Revenue District Officer were not indicated in the waivers; and (3) the fact of receipt by the taxpayer of its copy of the second waiver was not indicated on the face of the original second waiver. The Court therein reiterated the general rule that failure to comply with the requirements of RMO No. 20-90 and RDAO No. 05-01 renders the waiver invalid and ineffective. However, we also found sufficient reasons to uphold the validity of the defective waivers in *Next Mobile due to its peculiar circumstances, viz.:*

First, the parties in this case are *in pari delicto* or “**in equal fault.**” *In pari delicto* connotes that the two parties to a controversy are equally culpable or guilty and they shall have no action against each other. However, although the parties are *in pari delicto*, the Court may interfere and grant relief at the suit of one of them, where public policy requires its intervention, even though the result may be that a benefit will be derived by one party who is in equal guilt with the other.

Here, to uphold the validity of the Waivers would be consistent with the public policy embodied in the principle that taxes are the lifeblood of the government, and their prompt and certain availability is an imperious need. Taxes are the nation’s lifeblood through which government agencies continue to operate and which the State discharges its functions for the welfare of its constituents. As between the parties, it would be more equitable if petitioner’s lapses were allowed to pass and consequently uphold the Waivers in order to support this principle and public policy.

Second, the Court has repeatedly pronounced that **parties must come to court with clean hands**. Parties who do not come to court with clean hands cannot be allowed to benefit from their own wrongdoing. Following the foregoing principle, [the taxpayer] should not be allowed to benefit from the flaws in its own Waivers and successfully insist on their invalidity in order to evade its responsibility to pay taxes.

Third, respondent is **estopped** from questioning the validity of its Waivers. While it is true that the Court has repeatedly held that the doctrine of estoppel must be sparingly applied as an exception to the statute of limitations for assessment of taxes, the Court finds that the application of the doctrine is justified in this case. Verily, the application of estoppel in this case would promote the administration of the law, prevent injustice and avert the accomplishment of a wrong and undue advantage. Respondent executed five Waivers and delivered them to petitioner, one after the other. It allowed petitioner to rely on them and did not raise any objection against their validity until petitioner assessed taxes and penalties against it. Moreover, the application of estoppel is necessary to prevent the undue injury that the government would suffer because of the cancellation of petitioner’s assessment of respondent’s tax liabilities.

Finally, the Court cannot tolerate this **highly suspicious situation**. In this case, the taxpayer, on the one hand, after voluntarily executing waivers, insisted on their invalidity by raising the very same defects it

caused. On the other hand, the BIR miserably failed to exact from respondent compliance with its rules. The BIR's negligence in the performance of its duties was so gross that it amounted to malice and bad faith. Moreover, the BIR was so lax such that it seemed that it consented to the mistakes in the Waivers. Such a situation is dangerous and open to abuse by unscrupulous taxpayers who intend to escape their responsibility to pay taxes by mere expedient of hiding behind technicalities.

It is true that petitioner was also at fault here because it was careless in complying with the requirements of RMO No. 20-90 and RDAO [05-01]. Nevertheless, petitioner's negligence may be addressed by enforcing the provisions imposing administrative liabilities upon the officers responsible for these errors. The BIR's right to assess and collect taxes should not be jeopardized merely because of the mistakes and lapses of its officers, especially in cases like this where the taxpayer is obviously in bad faith.⁴⁶ (Emphases supplied; citations omitted)

In contrast with *Next Mobile*, only the first waiver in the present case was replete with defects attributable to both petitioner and the BIR. The first waiver was not properly executed on September 16, 2009 as it did not contain the agreed date within which the BIR may assess and collect taxes and the date of acceptance by the CIR. The first waiver could not have effectively extended the three-year prescriptive period to assess and collect taxes for the taxable year 2006. Even if we recognize the doctrine of estoppel and uphold the first waiver because the parties were *in pari delicto*, the second waiver did not toll the prescriptive period because of the failure to affix the date of acceptance of the second waiver – a mistake solely on the BIR's part. Similarly, the date of acceptance by the CIR was absent in the third waiver executed on October 18, 2010. Thus, even assuming that the first and second waivers were validly executed, the third waiver still resulted in the non-extension of the period to assess or collect taxes since its execution was contrary to the procedural guidelines in RMO No. 20-90 and RDAO No. 05-01.

Equally telling, there is no justification for the application of the doctrine of estoppel as an exception to the statute of limitations on the assessment of taxes in light of the detailed procedure for the proper execution of the waiver, which the BIR must strictly follow.⁴⁷ There is nothing vague nor difficult to understand about the procedural guidelines. The CIR and the revenue officials knew fully well the drastic consequences of noncompliance with RMO No. 20-90 and RDAO No. 05-01, yet they utterly failed to faithfully follow these BIR issuances. Clearly, the BIR is not entitled to the mantle of protection accorded by the doctrine of estoppel. Having caused the defects in the waivers, the BIR must bear the consequence of its own negligence.

⁴⁶ Id. at 443-445.

⁴⁷ *Commissioner of Internal Revenue v. Kudos Metal Corp.*, 634 Phil. 314, 328 (2010).


Given that *Next Mobile* is of a different factual milieu, the equitable principles of *in pari delicto*, unclean hands, and estoppel cannot be properly applied to herein case. In all, having established that petitioner's defective waivers of the statute of limitations did not suspend the three-year prescriptive period to issue an assessment, we hold that the right of the government to assess or collect the alleged deficiency taxes in this case is already barred by prescription.


WHEREFORE, in view of the foregoing reasons, the Court **GRANTS** the Petition for Review on *Certiorari* of petitioner Universal Weavers Corporation and **REVERSES** and **SETS ASIDE** the Decision dated February 9, 2017 and the Resolution dated August 31, 2017 of the Court of Tax Appeals *En Banc* in CTA EB No. 1348. The Court **REINSTATES** the Decision dated May 11, 2015 of the Court of Tax Appeals First Division cancelling the Final Demand and Final Assessment Notice No. 020-0704010876.


SO ORDERED.


EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice
 Chairperson

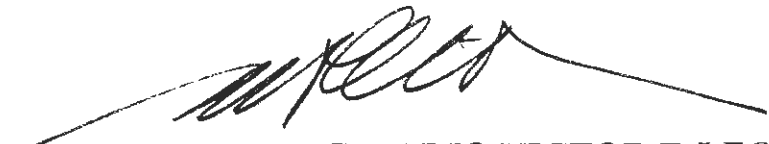

RAMON PAUL L. HERNANDO
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice


JHOSEP V. LOPEZ
 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.


MARVIC MARIO VICTOR F. LEONEN
 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.


ALEXANDER G. GESMUNDO
 Chief Justice