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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

IN THE MATTER OF THE  
PETITION FOR THE PROBATE  
OF THE LAST WILL AND  
TESTAMENT OF CECILIA  
ESGUERRA COSICO,

THELMA ESGUERRA GUIA,  
*Petitioner,*

-versus-

JOSE M. COSICO, JR., MANUEL  
M. COSICO, MINERVA M.  
COSICO, and ELEANOR M.  
COSICO-CHAVEZ,

*Respondents.*

G.R. No. 246997

Members:

PERLAS-BERNABE, J., *Chairperson,*  
LAZARO-JAVIER,  
LOPEZ, M.,  
ROSARIO, and  
LOPEZ, J., \* JJ.

Promulgated:

MAY 05 2021 

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This petition for review on *certiorari*<sup>1</sup> seeks to reverse the following dispositions of the Court of Appeals in CA-G.R. CV No. 104111, entitled *In the Matter of the Petition for the Probate of the Last Will and Testament of Cecilia Esguerra Cosico – Thelma Esguerra Guia v. Jose M. Cosico, Jr., Manuel M. Cosico, Minerva M. Cosico, and Eleanor M. Cosico-Chavez*:

\* Designated as additional member per Special Order No. 2822 dated April 7, 2021.

<sup>1</sup> *Rollo*, pp. 3-24.

1. Decision<sup>2</sup> dated December 7, 2018, reversing the Decision of the Regional Trial Court (RTC)-Br.32, San Pablo City which admitted to probate Cecilia Esguerra Cosico's last will and testament; and
2. Resolution<sup>3</sup> dated May 8, 2019, denying reconsideration.

### Antecedents

Cecilia Esguerra Cosico (Cecilia) was born in 1932 to Jose Cosico, Sr. and Corazon Esguerra (Corazon). She was born with a physical disability and was known in the locality as a "*lumpo*." Corazon passed away when Cecilia was just one (1) year old and the latter was left in the care and custody of her maternal aunt, Mercedes Esguerra Guia (Mercedes). Mercedes raised Cecilia in their home in Schetilig Avenue, San Pablo City, together with Mercedes's legally adopted daughter, petitioner Thelma Esguerra Guia (Thelma). Because of her physical condition, Cecilia spent most of her days in her bedroom. She never attended school nor learned to read or write.<sup>4</sup>

In 1996, when she was sixty-four (64) years old, Cecilia decided to execute her last will and testament. Through Thelma's *balae* Liberato B. Benedictos (Liberato), Cecilia asked Atty. Danton Q. Bueser, then a notary public (now a retired Associate Justice of the Court of Appeals), for assistance in preparing the last will.<sup>5</sup> For the purpose of this case though, we shall refer to him as Atty. Bueser.

On September 8, 1996, Atty. Bueser and Liberato went to Cecilia's house. Atty. Bueser and Cecilia talked inside the latter's bedroom while Liberato stayed outside by the door. Liberato heard Cecilia call Mercedes whom she directed to collect documents from the steel cabinet. Mercedes complied and handed over the documents to Atty. Bueser.<sup>6</sup>

On September 10, 1996, Atty. Bueser and Liberato returned to Cecilia's house with the finished copy of her last will and testament denominated *Huling Habilin at Pagpapasiya* which consisted of four (4) pages, viz.:

#### HULING HABILIN AT PAGPAPASIYA

##### ALAMIN NG LAHAT NA:

AKO, CECILIA COSICO ESGUERRA, may sapat na gulang, dalaga, mamamayang Pilipino at kasalukuyang naninirahan sa No. 16 Schetilig Avenue, Lunsod ng San Pablo, samantalang malinaw, tumpak at wasto ang aking pag-iisip, diwa at alaala, na sa akin naman ay walang pumilit, tumakot, nagudyok o humikayat, ay kusang-loob kong isinagawa at

<sup>2</sup> Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Manuel M. Barrios and Rafael Antonio M. Santos, concurring; *id.* at 25-49.

<sup>3</sup> *Id.* at 50-51.

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

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

<sup>6</sup> *Id.*

ngayon ay ipinahahayag ang kasulatang ito, bilang aking HULING HABILIN o TESTAMENTO at PAGPAPASIYA, sa wikang Tagalog na katutubong wika at aking kinagisnan, at lubos na nauunawaan:

- I. Na aking ninanais na kung sakali't pumikit ang aking mga mata na ang aking bangkay ay paglamayan at ilibing nang naaayon sa kaugalian ng Simbahang Katoliko, Apostoliko Romano;
- II. Na ang mga ari-ariang aking maiiwan ay ang mga sumusunod:
  - 1) Isang lagay na lupang niyugan tumatayo sa nayon ng Sta. Isabel, Lunsod ng San Pablo, may tanim na 234 puno ng niyog nabunga, may sukat na 11,990 metros cuadrados, ang kabalantay sa Ilaya, Enrique Bautista; sa Silangan, Simplicia Capina; sa ibaba, Leoncio Cornista at sa Kanluran, Basilia Tan. Tax Dec. No. 94- 054-515, valor amillarado P21,700.
  - 2) Isang lagay na lupang niyugan tumatayo sa nayon ng Sta. Isabel, Lunsod ng San Pablo, may tanim na 105 puno ng niyog nabunga, may sukat na 6,223 metros cuadrados, ang kabalantay sa Ilaya, Epifanio Capina; sa Silangan, Vicente Angeles; sa ibaba, Brigida Escriba at Lauro Cabrera; at sa Kanluran Cornelio Esguerra. Tax Dec. No. 94-054-850, valor amillarado P10,460.00.
  - 3) Isang lagay na lupang niyugan tumatayo sa nayon ng Sta. Isabel, Lunsod ng San Pablo, may tanim na 130 puno ng niyog nabunga at may sukat na 13,685 metros cuadrados, ang kabalantay sa Ilaya, Cristina Rivera; sa Silangan, Hermogenes Collado; sa Ibaba, Gregorio Capistrano at Artemio Dichoso; at sa Kanluran, Felipe Capina. Tax Dec. No. 94-054-851, valor amillarado P23,000.00.
  - 4) Isang lagay na lupang niyugan tumatayo sa nayon ng Sta. Isabel, Lunsod ng San Pablo, may tanim na 113 puno ng niyog nabunga, may sukat na 3,780 metros cuadrados, ang kabalantay sa Ilaya, Cornelio Esguerra; sa Silangan, Andres Cornista; sa Ibaba, Cornelio Esguerra at sa Kanluran, Cornelio Esguerra at Agripino Cornista. Tax Dec. No. 94-054-849, valor amillarado P6,360.00.
  - 5) Isang lagay na lupang niyugan tumatayo sa nayon ng Sta. Isabel, Lunsod ng San Pablo, may tanim na 224 puno ng niyog na nabunga, may sukat na 12,136 metros cuadrados, ang kabalantay sa Ilaya, Pedro Capina; sa Silangan, Cornelio Esguerra; sa Ibaba, Antonio Capina at sa Kanluran, Melecio Brinas. Tax Dec. No. 94-058-255, valor amillarado P20,000.00.
  - 6) Isang lagay na lupang niyugan tumatayo sa nayon ng Concepcion, Lunsod ng San Pablo, may tanim na 27 puno ng niyog na nabunga, may sukat na 897 metros cuadrados, ang kabalantay sa Ilaya, Silvestre Guia, sa Silangan, Leoncio Capina; sa Ibaba, Crispin Bakod at Cornelio Esguerra; at sa Kanluran, Leoncio Capina at Cornelio Esguerra. Tax Dec. No. 94-041-1552, valor amillarado P1,470
  - 7) Ang aking ika-limang bahagi ng lupang tubigan at araruhin na tumatayo sa nayon ng Dayap, Municipio ng Calauan, Laguna, na may Tax Dec. 680 at 681, at sa nayon ng Santol, Calauan, Laguna na may Tax Dec. No. 683 at

3521.


- III. Na kung sakali at bawian ako ng Poong Maykapal ng aking hiram na buhay, ay nais kong ipamana, ibigay, at ipatungkol ang aking mga ari-ariang binabanggit sa unahan nito at bayarang lahat ang aking pagkakautang sakalit may maiiwan akong pagkakautang, sampo ng magagastos sa aking paglilibing ay bayarang lahat sa kuwartang kinikita ng aking kabuhayang maiiwan, nang katulad ng sumusunod:
- 1) Sa aking tiyahing na si MERCEDES ESGUERRA GUIA, na siyang nagaruga, naglingkod sapul pa sa aking pagkabata at nagbantay sa aking pagkakasakit.
- IV. Na kung sakali at mauna akong bawian ng buhay kaysa aking tiyahin, ay aking ipinahahayag at siyang ninanasa, na dapat na igalang nang lahat, na ang aking tiyahing si MERCEDES ESGUERRA GUIA ang siyang tangi magpapatuloy na gumamit at makinabang sa aking mga ari-ariang natatala sa unahan nito;
- V. Upang ang Huling Habling ito ay mapagtigay sa Hukuman, at matupad ang nilalaman, ay aking hinihirang at itinatalaga si MERCEDES ESGUERRA GUIA bilang siyang tanging tagaganap at tagapangasiwa nitong aking Huling Habling o Testamento; at kung sa anupamang kapansanan ay hindi siya makatupad, ay aking hinihirang bilang kahalili niya, ang kanyang anak na si THELMA GUIA ESTIVA;
- VI. Na aking pinagtibay na ang tagapangasiwa at tagaganap na aking dito'y hinirang, at ang kanyang kahalili, ay hindi na kailangan magbigay pa ng anumang lagak o piyansa;
- VII. Na aking binabawi at pinawawalang-saysay ang lahat at anumang kasulatan, Testamento, hayag at di hayag, na akin nang naisagawa, nilagdaan o ipinahayag nang nauna rito.

SA KATUNAYAN NG LAHAT, ako ay lumagda sa ibaba nito, ngayon araw ng \_\_\_\_\_, buwan ng \_\_\_\_\_ taong 1996 dito sa Lunsod ng San Pablo, Republika ng Pilipinas.

CECILIA ESGUERRA COSICO

#### PAGPAPATUNAY NG MGA SAKSI

KAMI, na mga nangagsilagda sa ibaba nito bilang saksi, ay nagpapatunay na ang naunang kasulatan ay siyang pinagtibay ni Bb. CECILIA ESGUERRA COSICO bilang kanyang Huling Habling o Testamento, nalalaman naman naming yaon ay kanyang isinagawa samantalang malinaw ang kanyang isipan at diwa, at alam niya ang kanyang ginagawa; at yaon ay nilagdaan niya sa aming harapan sa gawing ibaba at sa kaliwang gilid ng bawat dahon; at kami naman, sa kanyang kahilingan, ay nangagsilagda rin sa ibaba nito at gayon din sa kaliwang gilid ng bawat dahon sa harapan niya at ng bawat isa sa amin, at sa harapan ng Notaryo Publiko, ngayong ika-\_\_ araw ng buwan ng \_\_\_\_\_ taong 1996 dito sa Lunsod ng San Pablo.



LIBERATO B. BENEDICTOS (sgd.)  
naninirahan sa Villa Subd., Schetilig Ave., San Pablo City

RICARDO C. PANDINO (sgd.)  
Brgy. Sta. Isabel, San Pablo City

REYNALDO M. GIGANTE (sgd.)  
Brgy. Sta. Isabel, San Pablo City

REPUBLIKA NG PILIPINAS }  
LALAWIGAN NG LAGUNA }  
BAYAN NG SAN PABLO }

SA HARAPAN KO, ngayong ika-10 araw ng buwan ng Setyembre taong 1996, dito sa Lunsod ng San Pablo, ay dunulog si CECILIA ESGUERRA COSICO may katibayan ng paninirahan Blg. A 6536790 gawad noong ika-13 ng Aug. 1996 dito sa Lunsod ng San Pablo. Kilala ko na siya ang nagsagawa na naunang HULING HABILIN o TESTAMENTO, na kanyang isinagawa at nilagdaan sa harapan ng kanyang tatlong saksi na sina LIBERATO B. BENEDICTOS may K.P. Blg. A 3257377 gawad sa Lunsod ng San Pablo noong Enero 12, 1996; GIGANTE M. REYNALDO may K. P. Blg. A 3257581 gawad sa Lunsod ng San Pablo noong Jan. 3, 1996; RICARDO C. PANDINO may K. P. Blg. A 6540602 gawad sa Lunsod ng San Pablo noong Sept. 3, 1996. Na lahat sila ay nagsilagda ng kanilang mga pangalan sa ibaba na pagpapatunay na ito at sa bawat dahon sa harapan ni Bb. CECILIA ESGUERRA COSICO at ng bawat isa sa kanila at sa harapan ko at pinatunayan nila na yaon ay kanilang nilagdaan at isinagawa nang malaya at kusa sa kanilang kalooban.

Ang HULING HABILIN ito ay binubuo ng apat (4) na dahon, kasama ang dahong kinaroroonan ng pagpapatunay at pagpapatotoong ito. SAKSI ang aking lagda at panatak pangnotaryo.

DANTON Q. BUESER (sgd.)  
NOATARAY PUBLIC  
UNTIL DEC. 1996  
PTR No. 4206201  
San Pablo City

Doc. No. 177  
Page No. 37  
Book No. 33  
Series of 1996

Reynaldo M. Gigante (Reynaldo) and Ricardo C. Pandino (Ricardo) were also present at Cecilia's house that night upon her request. Reynaldo was the son of Cecilia's helper, while Ricardo was a neighbor who regularly went to the house to buy coconuts from Mercedes.<sup>7</sup>

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<sup>7</sup> *Id.* at 31.

In the presence of Liberato, Reynaldo, and Ricardo who served as notarial witnesses to Cecilia's *Huling Habilin at Pagpapasiya*, Atty. Bueser read the contents of the document to Cecilia and carefully explained to her its effects and consequences. He then asked her if she fully understood its contents and whether it was done according to her wishes. Cecilia confirmed.<sup>8</sup>

After Atty. Bueser read and explained the contents of the *Huling Habilin at Pagpapasiya*, Cecilia affixed her thumbmark to the will on top of her printed name and on the lower left portion of the first and second pages of the document – all in the presence of Atty. Bueser and her notarial witnesses. Subsequently, in the presence of Liberato, Reynaldo, and Ricardo, both Cecilia and Atty. Bueser signed on the left margin of the first two pages of the *Huling Habilin at Pagpapasiya* and at the end of the attestation clause.<sup>9</sup>

After all the preparations, Atty. Bueser handed over the signed copy of the *Huling Habilin at Pagpapasiya* to Cecilia.<sup>10</sup>

On March 22, 2006, Cecilia died at the age of seventy-four (74). Following her death, Mercedes obtained a copy of the *Huling Habilin at Pagpapasiya*, had it photocopied and gave her spouse Gomerciendo Guia and Thelma a copy each.<sup>11</sup>

On May 9, 2009, Mercedes died.<sup>12</sup>

On July 6, 2010, Thelma filed a Petition for probate of Cecilia's will and for her appointment as administrator of the latter's estate before the Regional Trial Court (RTC)-Br. 32, San Pablo City.<sup>13</sup>

On September 23, 2010, Cecilia's half siblings from the same father, respondents Jose. M. Cosico, Jr., Manuel M. Cosico, Minerva M. Cosico, and Eleanor M. Cosico-Chavez (respondents) opposed the petition.<sup>14</sup> They essentially alleged that the formalities for the execution of a valid will under Articles 805 to 809 of the Civil Code were not complied with. More, Cecilia was not mentally capacitated at the time she purportedly executed her will; if at all, she signed it under duress and improper pressure from the beneficiary; the alleged thumbprint of Cecilia was procured through fraud; and Cecilia did not intend the document denominated *Huling Habilin at Pagpapasiya* to be her last will and testament.<sup>15</sup>

On October 28, 2010, Batubalani Realty and Development Corporation (Batubalani) moved for leave to intervene, claiming it had interest in Cecilia's

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 32.

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

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 53.

<sup>15</sup> *Id.* at 32.

properties. During their lifetime, Cecilia and Mercedes supposedly entered into a Joint Venture Agreement (JVA) with it on August 5, 1998. Under this Agreement, Batubalani developed a subdivision project covering 35,000 square meters of land owned by Cecilia and Mercedes. Batubalani then sold the developed lots. The proceeds were shared by the company, Cecilia, and Mercedes. In connection with the Agreement, Cecilia and Mercedes registered the parcels of land in their names under one title, Original Certificate of Title No. 0-861.<sup>16</sup>

Through Order dated November 26, 2010, the trial court granted the motion to intervene. It also noted the stipulations entered into by the parties at the pre-trial, thus:<sup>17</sup> a.) Cecilia died on March 22, 2006; b.) She died without compulsory heirs; and c.) Mercedes had already passed away.<sup>18</sup>

Meantime, by Order dated August 8, 2011, the trial court appointed Atty. Gerardo Iligan (Atty. Iligan) as Special Administrator of Cecilia's estate. Pursuant to his powers and duties as special administrator, Atty. Iligan secured and received copies of all deeds of conditional sale and expenses incurred relating to Cecilia's properties under the JVA. He also rendered accounting of those lots yet unsold. As it turned out, the 35,000-square meter parcel of land subject of the JVA was subdivided into 200 smaller lots covered by several transfer certificates in the names of Cecilia and Mercedes. Of the 200 smaller lots, 167 were put up for sale, 60 of which had already been sold, while the rest were roads and open spaces. Consequently, Atty. Iligan prepared a Segregation Agreement with Thelma where they agreed to assign 53 parcels of land to Mercedes and the 54 unsold lots to Cecilia. Thereafter, they jointly moved for its approval.<sup>19</sup>

### **The Regional Trial Court's Decision**

By Decision dated June 30, 2014,<sup>20</sup> the trial court granted the Special Administrator's Motion for Segregation and admitted Cecilia's *Huling Habilin at Pagpapasiya* to probate, viz.:

As it is, the Segregation Agreement was executed between the Special Administrator and the petitioner who is the named substitute executor and heir to the estate of Cecilia pursuant to the (sic) Cecilia's *Huling Habilin at Pagpapasiya*. The petitioner is also the only heir of Mercedes who is part owner of the lot covered by Original Certificate of Title No. 0-861, which was subdivided into several lots sold to third parties pursuant to the Joint Venture Agreement entered into between the intervenor Batubalani Realty Development Corporation, on the one hand, and Cecilia and Mercedes, on the other. In short, then, petitioner Thelma Esguerra Guia Esteva is bound to be the only owner, not only of the share of Mercedes in the lot covered by OCT No. 0-861, but also of the share of Cecilia in the same lot, including all other properties of Cecilia mentioned in the latter's

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<sup>16</sup> *Id.* at 32-33.

<sup>17</sup> *Id.* at 33-34.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 34-37.

<sup>20</sup> Penned by Presiding Judge Agripino G. Morga; *id.* at 52-128.

Huling Habilin at Pagpapasiya.

This Court thus **grants the Special Administrator's Motion for Segregation. The Segregation Agreement is hereby approved.** After all, with the probate of Cecilia's Huling Habilin at Pagpapasiya, the petitioner shall remain the sole executor and heir to the estate of Cecilia pursuant to the Huling Habilin at Pagpapasiya, as well as the sole heir to Mercedes. (Emphasis supplied)

x x x x

**WHEREFORE**, premises considered, the last will and testament of Cecilia Esguerra Cosico, contained in her Huling Habilin at Pagpapasiya executed on September 10, 1996 is hereby ADMITTED to probate.

Letters testamentary and/or administration are hereby issued in favor of Thelma Esguerra Guia Estiva without posing any bond. In accordance with the Huling Habilin at Pagpapasiya of Cecilia Esguerra Cosico, Thelma Esguerra Guia Estiva shall be the executor of, and the sole heir, to the estate of Cecilia Esguerra Cosico.

Within three (3) months after her appointment as executor or administrator, Thelma Esguerra Guia Estiva is directed to submit a true inventory and appraisal of all the real and personal estate of Cecilia Esguerra Cosico. She may secure the services of a tax appraiser in the appraisal of the estate.

Thelma Esguerra Guia Estiva is also directed to pay Atty. Gerardo B. Ilagan his compensation as Special Administrator, and all proper expenses of administration incurred by him, chargeable against the estate, pursuant to Section 7, Rule 85 of the Rules of Court.

Let a notice be issued to any and all persons who have money claims against Cecilia Esguerra Cosico and her estate to file their claim before the Office of the Clerk of Court of this Court. This notice shall be published for three (3) consecutive weeks successively in a newspaper of general publication in the Province of Laguna and in San Pablo City, and shall be posted for the same period in four public places in the province and in two public places in the City of San Pablo where Cecilia Esguerra Cosico last resided. Such money claims against the estate of Cecilia Esguerra Cosico shall be filed with the Office of the Clerk of Court within a period of not more than twelve (12) months nor less than six (6) months after the date of the first publication of the notice.

**SO ORDERED.**<sup>21</sup>

The trial court essentially ruled that Cecilia freely and voluntarily executed the will, during which time, she was of sound mind.<sup>22</sup> The *Huling Habilin at Pagpapasiya* was executed in accordance with the formal and essential requisites of law.<sup>23</sup> The court had the power to act on the Special Administrator's Motion to Approve the Segregation Agreement. It further noted that while respondents were blood relatives of Cecilia, it was not

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 68-81.

<sup>23</sup> *Id.* at 68-118.



unnatural for her to have bequeathed all her properties to Mercedes since it was Mercedes who took care of her throughout her lifetime and provided her comfort up to her last breath.<sup>24</sup>

While she was considered a *lumpo*, Cecilia knew fully well the nature of her properties to be disposed of, the proper subjects of her bounty, and the character of her testamentary act. To be sure, her *Huling Habilin at Pagpapasiya* was not prepared all in one day, but was actually a product of a prior conference and discussion with Atty. Bueser two (2) nights before the signing and final execution thereof; the respective testimonies of Reynaldo and Liberato corroborated each other on Cecilia's sound mental condition; and at any rate, respondents failed to rebut the presumption that every person is of sound mind, as they had in fact waived their right to adduce evidence to support their opposition; finally, nowhere was it shown that Mercedes or Thelma pressured or duly influenced Cecilia into executing her *Huling Habilin at Pagpapasiya*.<sup>25</sup>

The *Huling Habilin at Pagpapasiya* complied with the formal and essential requirements of the Civil Code: (1) Cecilia was of sound mind when she had it prepared and executed; (2) it was written in Filipino, a language known to Cecilia; (3) Cecilia subscribed to it by affixing her thumbmark thereto; (4) it was attested and subscribed by three (3) credible witnesses in the presence of Cecilia and of one another.<sup>26</sup>

The trial court did not give merit to respondents' argument that the *Huling Habilin at Pagpapasiya* was supposedly fatally defective for not having been read twice: once, by one of the subscribing witnesses; and again by the notary public before whom it was acknowledged in view of Cecilia's illiteracy. It considered the following reasons to have rendered the requirement superfluous: (1) Cecilia herself discussed and dictated the terms by which she wanted to dispose of her properties with Atty. Bueser two (2) days before subscribing to the *Huling Habilin at Pagpapasiya*; (2) on the day she affixed her thumbmark to the *Huling Habilin at Pagpapasiya*, its contents were read and carefully explained to Cecilia by Atty. Bueser; and (3) when Atty. Bueser asked Cecilia if she understood the contents of her *Huling Habilin at Pagpapasiya*, she readily affixed her thumbmark thereto, signifying that its terms and contents were consistent with her wishes.<sup>27</sup>

**Finally**, the court explained that its approval of the Segregation Agreement was inevitable following the admission to probate of the *Huling Habilin at Pagpapasiya* wherein Thelma stood to inherit all the properties of Mercedes, including those which Cecilia herself previously acquired as sole heir of Mercedes.<sup>28</sup>

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<sup>24</sup> *Id.* at 125-126.

<sup>25</sup> *Id.* at 64-65.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 66.

<sup>28</sup> *Id.* at 125.

On appeal, respondents faulted the trial court for admitting in probate Cecilia's will. They insisted that Cecilia's *Huling Habilin at Pagpapasiya* did not comply with all the legal requirements under Articles 806<sup>29</sup> and 808<sup>30</sup> of the Civil Code. For one, Liberato and Reynaldo failed to declare or avow that their act of signing Cecilia's *Huling Habilin at Pagpapasiya* was voluntary. For another, the *Huling Habilin at Pagpapasiya* was read to Cecilia only once by Atty. Bueser and lacked the second reading requirement by one of her notarial witnesses. Finally, the Special Administrator had no authority to enter into such a Segregation Agreement with Thelma.<sup>31</sup>

### The Court of Appeals' Decision

By Decision<sup>32</sup> dated December 7, 2018, the Court of Appeals reversed. It ruled that Cecilia's *Huling Habilin at Pagpapasiya* was void since it violated Article 808 of the Civil Code, thus:

**WHEREFORE**, in light of the foregoing, the instant appeal is **GRANTED**. The assailed Decision of the Regional Trial Court of San Pablo City, Branch 32, in Special Proceeding No. SP-1827(10) is **REVERSED** and **SET ASIDE**. Judgment is rendered **DISMISSING** the petition for probate filed by the petitioner-appellee Thelma Esguerra Guia; and, **DENYING** the Motion to Approve Segregation Agreement.

#### SO ORDERED.

On one hand, it noted that the *Huling Habilin at Pagpapasiya* had substantially complied with Article 806. While respondents insisted that the notarial witnesses failed to make a declaration before the notary public that their acts of affixing their respective signatures were voluntary, this was easily refuted by the acknowledgment portion of the will, *viz.*:

SA HARAPAN KO x x x ay dumulog si CECILIA ESGUERRA COSICO x x x Kilala ko na siya ang nagsagawa na naunang HULING HABILIN o TESTAMENTO, na kanyang isinagawa at nilagdaan sa harapan ng kanyang tatlong saksi na sina LIBERATO B. BENEDICTOS x x x; GIGANTE M. REYNALDO xxx; RICARDO C. PANDINO x x x. **Na lahat sila ay nagsilagda ng kanilang mga pangalan sa ibaba na pagpapatunay na ito at sa bawat dahon sa harapan ni Bb. CECILIA ESGUERRA COSICO at ng bawat isa sa kanila at sa harapan ko at pinatunayan nila na yaon ay kanilang nilagdaan at isinagawa nang malaya at kusa sa kanilang kalooban.** (Emphasis supplied)

At any rate, there was no evidence showing that the notarial witnesses

<sup>29</sup> Article 806. Every will must be acknowledged before a notary public by the testator and the witnesses. The notary public shall not be required to retain a copy of the will, or file another with the office of the Clerk of Court (n).

<sup>30</sup> Article 808. If the testator is blind, the will shall be read to him twice; once, by one of the subscribing witnesses, and again, by the notary public before whom the will is acknowledged. (n)

<sup>31</sup> *Id.* at 67.

<sup>32</sup> Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Manuel M. Barrios and Rafael Antonio M. Santos., concurring; *id.* at 25-49.

were forced or coerced into signing the *Huling Habilin at Pagpapasiya*.<sup>33</sup>

The Court of Appeals nevertheless ruled that as for Article 808, the same was not observed during the execution of the *Huling Habilin at Pagpapasiya*. While it is strictly a requirement for blind testators, jurisprudence has, by analogy, applied the requirement of reading the will **twice**: once, by one of the instrumental witnesses and, again, by the notary public before whom the will was acknowledged to those who, for one reason or another, are “incapable of reading their wills.”<sup>34</sup>

It emphasized the rationale behind Article 808 – to make the provisions in the will known to the testator and to allow him or her to object if they are not in accordance to his or her wishes. Having been read twice by different disinterested persons would ensure that the contents of the will are properly communicated and understood by the testator.<sup>35</sup>

Here, it was undisputed that Cecilia never learned how to read and write, hence she was an illiterate; and it was only the notary public, Atty. Bueser, who read the will to the testator Cecilia. Thus, the will should not have been admitted to probate for violation of Article 808.<sup>36</sup>

It became wholly immaterial that Cecilia had full possession of her reasoning faculties; and clear knowledge of the nature of her estate, the proper objects of her bounty, and the character of her testamentary act. For the breach of Article 808 had actually exposed Cecilia’s will to the possibility of fraud. In other words, even if Cecilia had fulfilled the aforesaid requirements, there is no guarantee that the will which was “read” to her was the same document which she and the notarial witnesses signed.<sup>37</sup>

Finally, the Court of Appeals ruled that Thelma could not invoke *In re: Alvarado v. Gaviola, Jr.*<sup>38</sup> for the purpose of claiming substantial compliance with Article 808. In *Alvarado*, the Court held that there was substantial compliance with Article 808 because the notary public and the notarial witnesses had their own copy of the will and read the same silently while the lawyer read it out loud. In contrast, none of the notarial witnesses here were given copy of the *Huling Habilin at Pagpapasiya*. As such, they could not have confirmed the contents of the document read and explained by Atty. Bueser to Cecilia.<sup>39</sup>

With the disallowance of the *Huling Habilin at Pagpapasiya* to probate, the Segregation Agreement becomes devoid of basis. As such, Cecilia’s properties should be passed on to her heirs by intestate succession under

<sup>33</sup> *Id.* at 70.

<sup>34</sup> *Id.* at 70, citing 297 Phil. 384, 390 (1993) and 143 Phil. 290, 304 (1970).

<sup>35</sup> *Id.* at 71.

<sup>36</sup> *Id.* at 71-73.

<sup>37</sup> *Id.* at 73-74.

<sup>38</sup> 297 Phil. 384, 388 (1993).

<sup>39</sup> *Id.*

Article 960<sup>40</sup> in relation to Articles 1003<sup>41</sup> and 1007<sup>42</sup> of the Civil Code.

The Court of Appeals denied reconsideration on May 8, 2019.<sup>43</sup>

### Present Petition

Thelma now asks the Court to exercise its discretionary appellate jurisdiction to review and reverse the assailed issuances of the Court of Appeals.<sup>44</sup>

She faults the Court of Appeals for ruling that Article 808 was not substantially complied with insofar as the *Huling Habilin at Pagpapasiya* is **concerned** and that *Alvarado* was inapplicable here; for disallowing probate of the will; and for denying the motion to approve the Segregation Agreement. Thelma asserts that there was more than substantial compliance with Article 808, as correctly ruled by the trial court in its Decision dated June 30, 2014.<sup>45</sup> There is substantial compliance so long as the spirit of the law was served, even though the letter of the law was not. Formal imperfections may be overlooked when they do not affect the rationale behind the requirement.<sup>46</sup>

She argues anew that although Cecilia was a *lumpo* and did not have any formal education, she had full possession of her faculties when she executed her last will. She too had clear knowledge of the nature of her estate to be disposed of, the proper objects of her bounty, and the character of her testamentary act. She requested Liberato to look for a lawyer to help her prepare her last will and testament two (2) days before its execution. Liberato spoke to Atty. Bueser who agreed to assist Cecilia prepare and execute her last will and testament. Atty. Bueser and Cecilia conferred and discussed the latter's wishes, which the former reduced in writing, observing the formalities of a will. Finally, on September 10, 1996, in the presence of the notarial witnesses, Atty. Bueser read and explained the *Huling Habilin at Pagpapasiya* to Cecilia, who then, affixed her thumbmark thereto. The notarial witnesses likewise each affixed their respective signatures to the document.<sup>47</sup>

It was not only the *Huling Habilin at Pagpapasiya* that established Cecilia's wishes, but the testimonies of the notarial witnesses as well. They proved that Cecilia had desired for her properties to be bequeathed to her aunt

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<sup>40</sup> Article 960. Legal or intestate succession takes place:

(1) If a person dies without a will, or with a void will, or one which has subsequently lost its validity;

x x x

<sup>41</sup> Article 1003. If there are no descendants, ascendants, illegitimate children, or a surviving spouse, the collateral relatives shall succeed to the entire estate of the deceased in accordance with the following articles. (946a)

<sup>42</sup> Article 1007. In case brothers and sisters of the half blood, some on the father's and some on the mother's side, are the only survivors, all shall inherit in equal shares without distinction as to the origin of the property. (950)

<sup>43</sup> *Rollo*, pp. 50-52.

<sup>44</sup> *Id.* at 3-24; Petition for Review on *Certiorari*.

<sup>45</sup> *Id.* at 14.

<sup>46</sup> *Id.* at 17.

<sup>47</sup> *Id.* at 16-17.

Mercedes who took care of her throughout her lifetime and even provided comfort up to her last breath.<sup>48</sup>

In sum, the denial of the *Huling Habilin at Pagpapasiya* simply because none of the notarial witnesses read the contents thereof out loud nor silently read their own copies like in *Alvarado* - would frustrate Cecilia's wishes and intentions.<sup>49</sup> Consequently, the *Huling Habilin at Pagpapasiya* should be admitted to probate and the Segregation Agreement, approved.<sup>50</sup>

In their *Comment*,<sup>51</sup> respondents maintain that the Court of Appeals correctly ruled that Article 808 was not complied with. For one, both Liberato and Reynaldo admitted that they did not read the *Huling Habilin at Pagpapasiya*, but merely relied on the explanation of Atty. Bueser – who himself did not testify.<sup>52</sup> For another, *Alvarado* is not on all fours with the present case, hence, the doctrine of substantial compliance is inapplicable here.<sup>53</sup>

### Threshold Issues

Was the *Huling Habilin at Pagpapasiya* executed in compliance with Article 808 of the Civil Code?

Should the Segregation Agreement be approved?

### Ruling

We grant the petition.

Article 808 of the Civil Code requires that the contents of a last will and testament be read to the testator twice, once by one of the subscribing witnesses, and again, by the notary, *viz.*:

Article 808. If the testator is blind, the will shall be read to him twice; once, by one of the subscribing witnesses, and again, by the notary public before whom the will is acknowledged. (n)

While the law imposes the requirement only when the testator is blind, the Court has expanded its coverage to those who are illiterate. *Alvarado* elucidates:<sup>54</sup>

The following pronouncement in *Garcia vs. Vasquez*<sup>55</sup> provides an insight into the scope of the term "blindness" as used in Art. 808, to wit:

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<sup>48</sup> *Id.* at 19.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 20-22.

<sup>51</sup> *Id.* at 137-153; Respondents' Comment to the Petition for *Certiorari*, dated August 28, 2019.

<sup>52</sup> *Id.* at 148-151.

<sup>53</sup> *Id.* at 151-153.

<sup>54</sup> 297 Phil. 384, 389 (1993).

<sup>55</sup> 143 Phil. 290, 304 (1970).

The rationale behind the requirement of reading the will to the testator if he is blind or incapable of reading the will himself (as when he is illiterate), is to make the provisions thereof known to him, so that he may be able to object if they are not in accordance with his wishes . . .

Clear from the foregoing is that **Art. 808 applies not only to blind testators but also to those who, for one reason or another, are "incapable of reading the(ir) will(s)." xxx**

Article 808 requires that in case of testators like Brigido Alvarado, the will shall be read twice; once, by one of the instrumental witnesses and, again, by the notary public before whom the will was acknowledged. The purpose is to make known to the incapacitated testator the contents of the document before signing and to give him an opportunity to object if anything is contrary to his instructions.

Here, Cecilia was not blind but a *lumpo*. The Court of Appeals nevertheless applied Article 808 of the Civil Code considering that Cecilia received no formal education and is incapable of reading or writing, hence, illiterate. Pursuant to *Alvarado*, therefore, one of the subscribing witnesses should have read Cecilia the *Huling Habilin at Pagpapasiya* aside from Atty. Bueser.

We disagree.

Though *Alvarado* seemingly extended the application of Article 808 to cover not just the blind but also illiterates, the same case also recognized an exception to the rule – substantial compliance. We find this exception applicable here.

In *Alvarado*, the testator was a 79-year old man who executed a notarial will, a subsequent holographic will, and later on, a codicil where he modified certain dispositions in the notarial will. As it was however, he was suffering from glaucoma, an eye condition which limited his functional vision “counting fingers at three (3) feet,” preventing him from actually seeing for himself the contents of his own will. The Court thus ruled that such condition fell under the scope of Article 808, requiring the will to be read twice to the testator: once by the notary public, and another, by one of the notarial witnesses. Though this two-pronged requirement was not fulfilled, the Court nevertheless allowed the will probate on ground of substantial compliance, thus:

**This Court has held in a number of occasions that substantial compliance is acceptable where the purpose of the law has been satisfied, the reason being that the solemnities surrounding the execution of wills are intended to protect the testator from all kinds of fraud and trickery but are never intended to be so rigid and inflexible as to destroy the testamentary privilege.**

In the case at bar, private respondent read the testator's will and codicil aloud in the presence of the testator, his three instrumental witnesses,

and the notary public. Prior and subsequent thereto, the testator affirmed, upon being asked, that the contents read corresponded with his instructions. Only then did the signing and acknowledgement take place. There is no evidence, and petitioner does not so allege, that the contents of the will and codicil were not sufficiently made known and communicated to the testator. On the contrary, with respect to the "Huling Habilin," the day of the execution was not the first time that Brigido had affirmed the truth and authenticity of the contents of the draft. The uncontradicted testimony of Atty. Rino is that Brigido Alvarado already acknowledged that the will was drafted in accordance with his expressed wishes even prior to 5 November 1977 when Atty. Rino went to the testator's residence precisely for the purpose of securing his conformity to the draft.

Moreover, it was not only Atty. Rino who read the documents on 5 November and 29 December 1977. The notary public and the three instrumental witnesses likewise read the will and codicil, albeit silently. Afterwards, Atty. Nonia de la Pena (the notary public) and Dr. Crescente O. Evidente (one of the three instrumental witnesses and the testator's physician) asked the testator whether the contents of the document were of his own free will. Brigido answered in the affirmative. With four persons following the reading word for word with their own copies, it can be safely concluded that the testator was reasonably assured that what was read to him (those which he affirmed were in accordance with his instructions), **were the terms actually appearing on the typewritten documents.** This is especially true when we consider the fact that the three instrumental witnesses were persons known to the testator, one being his physician (Dr. Evidente) and another (Potenciano C. Ranieses) being known to him since childhood.

**The spirit behind the law was served though the letter was not. Although there should be strict compliance with the substantial requirements of the law in order to insure the authenticity of the will, the formal imperfections should be brushed aside when they do not affect its purpose and which, when taken into account, may only defeat the testator's will.**

As a final word to convince petitioner of the propriety of the trial court's Probate Order and its affirmance by the Court of Appeals, we quote the following pronouncement in *Abangan v. Abangan*,<sup>[56]</sup> to wit:

**The object of the solemnities surrounding the execution of wills is to close the door against bad faith and fraud, to avoid the substitution of wills and testaments and to guaranty their truth and authenticity. Therefore the laws on the subject should be interpreted in such a way as to attain these primordial ends. But, on the other hand, also one must not lose sight of the fact that it is not the object of the law to restrain and curtail the exercise of the right to make a will. So when an interpretation already given assures such ends, any other interpretation whatsoever, that adds nothing but demands more requisites entirely unnecessary, useless and frustrative of the testator's will, must be disregarded.**

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<sup>56</sup> 40 Phil. 476, 479 (1919).

Brigido Alvarado had expressed his last wishes in clear and unmistakable terms in his "Huling Habilin" and the codicil attached thereto. We are unwilling to cast these aside for the mere reason that a legal requirement intended for his protection was not followed strictly when such compliance had been rendered unnecessary by the fact that the purpose of the law, i.e., to make known to the incapacitated testator the contents of the draft of his will, had already been accomplished. To reiterate, substantial compliance suffices where the purpose has been served. (Emphases and underscoring supplied; Citations omitted)

Indeed, the purpose of a will is to grant the wishes of a person upon his/her death, especially with respect to the disposition of his/her worldly possessions.<sup>57</sup> Both law and jurisprudence are consistent in allowing a degree of flexibility with the requirements in the execution of wills, especially as to the formal aspect.<sup>58</sup>

Here, we find that upholding respondents' position and the Court of Appeals' ruling would only frustrate Cecilia's will. A review of the document itself, the testimonies of the witnesses, and the record shows that like in *Abangan*, as cited in *Alvarado*, the intention of the testator had been established and protected from fraud or trickery.

Notably, Atty. Bueser *read* and *explained* the contents of the *Huling Habilin at Pagpapasiya* to Cecilia. Meanwhile, Liberato and Reynaldo listened and understood the explanation of Atty. Bueser. It is also undisputed that Cecilia made no denial or correction to what she had heard. As such, we are convinced that the underlying protection of Article 808 had been fulfilled here.

At any rate, the Court refuses to entertain such a possibility of fraud because Atty. Bueser, aside from having observed all other formalities, handed copies of the *Huling Habilin at Pagpapasiya* to the notarial witnesses for their signatures. This gave them the opportunity to read a short four (4)-page document which they all flipped through from pages one (1) through four (4) to affix their respective signatures, essentially negating any possibility of fraud, trickery, or misrepresentation.

More, the notarial witnesses heard Atty. Bueser read and explain to Cecilia her *Huling Habilin at Pagpapasiya* which gave both Cecilia and themselves the opportunity to object to any provision in the will that may not have been according to her wishes. As it was, no objections were made. To be sure, Reynaldo knew and understood Cecilia's testamentary act and disposition of her properties. He testified:

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<sup>57</sup> Article 783, Civil Code - A will is an act whereby a person is permitted, with the formalities prescribed by law, to control to a certain degree the disposition of this estate, to take effect after his death. (667a)

<sup>58</sup> *Alvarado*, citing *Abangan* 40 Phil. 476, 479 (1919); Article 809, Civil Code - In the absence of bad faith, forgery, or fraud, or undue and improper pressure and influence, defects and imperfections in the form of attestation or in the language used therein shall not render the will invalid if it is proved that the will was in fact executed and attested in substantial compliance with all the requirements of article 805. (n)



- Q Mr. Witness, you said Atty. Danton Bueser explained the *Huling Habilin at Pagpapsiya* to Cecilia Esguerra Cosico and you were present, if you can recall what is the most important content which was explained to her by Atty. Danton Bueser to the testator Cecilia Esguerra Cosico?
- A Atty. Bueser explained that the properties owned by Cecilia Esguerra Cosico, if she will be leaving shall be given to the one taking care of her, sir.
- Q Who is that person who is taking care of Cecilia Esguerra Cosico?
- A Mercedes Guia, sir.
- Q What was the answer of Cecilia Esguerra Cosico after it was explained that all the properties shall be bequeathed or given to... based on the documents shall be given to Mercedes Guia?
- A She agreed, sir. (Emphases and underscoring supplied)<sup>59</sup>

Verily, Cecilia's *Huling Habilin at Pagpapasiya* and Reynaldo's testimony are consistent on the most material point in the will – that her properties shall be inherited by her aunt, Mercedes.

In sum, Article 808 is meant to protect the testator from all kinds of fraud and trickery but is never intended to be so rigid and inflexible as to destroy testamentary privilege. Here, the danger that Article 808 is designed to prevent is undoubtedly nonexistent. As such, the trial court correctly ruled that the *Huling Habilin at Pagpapasiya* had substantially complied with its spirit for the purpose of admitting it to probate.

As for the Segregation Agreement, we agree with the Court of Appeals that its approval has no basis, albeit on a different ground. For the trial court, acting as a probate court has limited jurisdiction, relating only to matters involving the probate of the will, i.e. the proceedings in determining the validity of a will. *Aranas v. Mercado*<sup>60</sup> is instructive:

The probate court is authorized to determine the issue of ownership of properties for purposes of their inclusion or exclusion from the inventory to be submitted by the administrator, but its determination shall only be provisional unless the interested parties are all heirs of the decedent, or the question is one of collation or advancement, or the parties consent to the assumption of jurisdiction by the probate court and the rights of third parties are not impaired. Its jurisdiction extends to matters incidental or collateral to the settlement and distribution of the estate, such as the determination of the status of each heir and whether property included in the inventory is the conjugal or exclusive property of the deceased spouse.

x x x x

**The general rule is that the jurisdiction of the trial court, either as a probate court or an intestate court, relates only to matters having to do with the probate of the will and/or settlement of the estate of**

<sup>59</sup> TSN dated February 25, 2011, Testimony of Reynaldo Mercado Gigante, pp. 25-31.

<sup>60</sup> 724 Phil. 174, 176 (2014), citing *Agtarap v. Agtarap*, 666 Phil. 452, 486 (2011).

deceased persons, but does not extend to the determination of questions of ownership that arise during the proceedings. The patent rationale for this rule is that such court merely exercises special and limited jurisdiction. As held in several cases, a probate court or one in charge of estate proceedings, whether testate or intestate, **cannot adjudicate or determine title to properties claimed to be a part of the estate** and which are claimed to belong to outside parties, not by virtue of any right of inheritance from the deceased but by title adverse to that of the deceased and his estate. **All that the said court could do as regards said properties is to determine whether or not they should be included in the inventory of properties to be administered by the administrator.** If there is no dispute, there poses no problem, but if there is, then the parties, the administrator, and the opposing parties have to resort to an ordinary action before a court exercising general jurisdiction for a final determination of the conflicting claims of title.

To stress, the petition filed below is for **probate**. The question is limited to determining the validity of a will for its allowance – not the distribution of the estate yet. Thus, we cannot concur in the trial court's reasoning that the issue on the approval of the Segregation Agreement was mooted by Thelma's eventual inheritance of Cecilia's entire estate. For the properties under Cecilia's ownership would still be subject to accounting, collation, and even payment of loans or setting off liabilities.

So must it be.

**ACCORDINGLY**, the petition is **GRANTED**. The Decision<sup>61</sup> dated December 7, 2018 and Resolution<sup>62</sup> dated May 8, 2019 are **REVERSED and SET ASIDE**. The Decision<sup>63</sup> dated June 30, 2014 of the Regional Trial Court Branch 32, San Pablo City, Laguna is **REINSTATED with MODIFICATION**.

The last will and testament of Cecilia Esguerra Cosico, contained in her *Huling Habilin at Pagpapasiya* executed on September 10, 1996 is **ADMITTED** to probate.

Let letters testamentary and/or administration be **ISSUED** in favor of Thelma Esguerra Guia without posting any bond. In accordance with the *Huling Habilin at Pagpapasiya* of Cecilia Esguerra Cosico, Thelma Esguerra Guia shall be the executor of, and the sole heir, to the estate of Cecilia Esguerra Cosico.

Within three (3) months after her appointment as executor or administrator, Thelma Esguerra Guia is **DIRECTED** to **SUBMIT** a true inventory and appraisal of all the real and personal estate of Cecilia Esguerra Cosico. She may secure the services of a tax appraiser for this purpose.

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<sup>61</sup> Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Manuel M. Barrios and Rafael Antonio M. Santos, concurring; *Id.* at 25-49.


<sup>62</sup> *Id.* at 50-52.

<sup>63</sup> Penned by Presiding Judge Agripino G. Morga; *Id.* at 52-128.


Thelma Esguerra Guia is also **DIRECTED** to **PAY** Atty. Gerardo B. Iligan his compensation as Special Administrator, and all proper expenses of administration incurred by him, chargeable against the estate, pursuant to Section 7, Rule 85 of the Rules of Court.

The Motion to Approve Segregation Agreement is **DENIED**.

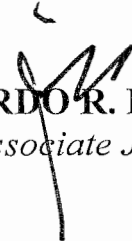
**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

**WE CONCUR:**

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson, Second Division*

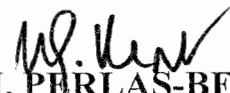
  
**MARIO Y. LOPEZ**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JHOSEP Y. LOPEZ**  
*Associate Justice*

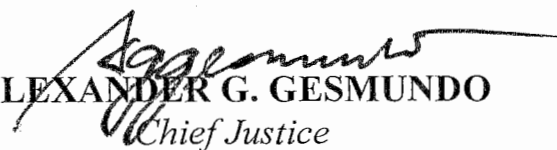
**ATTESTATION**

I attest that the conclusion 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.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

**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*

