Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

THE SALVATION ARMY, Petitioner,	**G.R. No. 230095**
	Present:
- versus -	PERLAS-BERNABE, *S.A.J.*, *Chairperson*, INTING, GAERLAN, ROSARIO,* *and* LOPEZ, J.,** *JJ.*
SOCIAL SECURITY SYSTEM, Respondent.	Promulgated: SEP 15 2021

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DECISION

GAERLAN, *J.*:

Before this Court is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[2] dated September 30, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 142049, and its Resolution[3] dated February 21, 2017, denying the motion for reconsideration thereof.

The Antecedent Facts

The Salvation Army (petitioner) is an international evangelical Christian Church and social welfare organization. It employs the use of military terminology in its organization, operations, and ministries. Petitioner is incorporated under the laws of the Philippines as a non-stock,

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* Designated additional Member per Special Order No. 2835 dated July 15, 2021.

** Hernando, J., no part as he penned the assailed CA Decision; Lopez, J., J., designated additional Member per Raffle dated August 25, 2021.

1 *Rollo*, pp. 3-101.

2 Id. at 779-786; penned by Associate Justice Ramon Paul L. Hernando (now a Member of this Court), with Associate Justices Jose C. Reyes, Jr. (now retired Member of this Court) and Stephen C. Cruz, concurring.

3 Id. at 789-790.

non-profit religious organization with headquarters at 1843 Leon Guinto, Sr. Street, Malate, Manila.[4]

On March 22, 1962, petitioner registered with the Social Security System (SSS) and was assigned Social Security (SS) No. 03-2070300-3. In its registration, it listed its officers as "employees."[5]

On December 19, 2005, the petitioner filed before the SSS a request for the conversion of the membership status of its officers from "employees" to "voluntary or self-employed."[6]

In a Letter dated January 30, 2006, the SSS denied the request for lack of legal and factual basis.[7]

Its Motion for Reconsideration having been similarly denied by the SSS in its Letter dated March 13, 2006, the petitioner elevated the matter to the Social Security Commission (SSC).[8]

In its Resolution[9] dated November 6, 2013, the SSC affirmed the denial of the petitioner's request for the conversion of the registered status of its officers. Its motion for reconsideration having been denied by the SSC, the petitioner filed a petition for review under Rule 43 of the Rules of Court before the CA.[10]

On September 30, 2016, the CA rendered the herein assailed Decision,[11] the dispositive portion of which reads:

> WHEREFORE, premises considered, the instant petition is DISMISSED. The Resolution dated November 6, 2013 and Order dated March 27, 2014 issued by the Social Security Commission ("SSC") in SSC Case No. 10-18141-07 are hereby AFFIRMED.
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> SO ORDERED.[12]

The CA, evaluating the facts of the case opined that all the elements of employer-employee relationship exist. As such, petitioner's officers are

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4 Id.
5 Id. at 8, 149.
6 Id.
7 Id.
8 Id.
9 Id. at 111-117; rendered by SSS Chairperson Juan B. Santos.
10 Id.
11 Id. at 779-786.
12 Id. at 786.

covered by Republic Act (R.A.) No. 1161, as amended, otherwise known as the "Social Security Law" and are entitled to the benefits thereunder. The waivers executed by these officers cannot operate to deprive them of this status; as the relationship between the parties cannot be determined unilaterally but dependent upon law, evidence, and jurisprudence.[13]

The petitioner sought reconsideration[14] of the said Decision, but the CA denied it in its Resolution[15] dated February 21, 2017.

Thus, this petition for review on *certiorari* whereby the petitioner attributes the following errors committed by the CA:

> A.
> THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN AFFIRMING THE RULING OF THE SOCIAL SECURITY SYSTEM (SSC), WHICH DECLARED THAT THE SALVATION ARMY OFFICERS ARE CONSIDERED ORDINARY EMPLOYEES DESPITE THE OVERWHELMING EVIDENCE SHOWING THE ECCLESIASTICAL NATURE OF THE RELATIONSHIP BETWEEN THE ARMY AND ITS OFFICERS.
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> B.
> THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN AFFIRMING THE RULING OF THE SSC, DENYING THE REQUEST FOR RETROACTIVE CONVERSION OF THE COVERAGE STATUS OF SALVATION ARMY OFFICERS (RELIGIOUS MINISTERS) FROM EMPLOYEE MEMBERS TO NON-EMPLOYEE MEMBERS, THEREBY DISREGARDING THE CONSTITUTIONAL RIGHT OF SAID OFFICERS TO FREE EXERCISE OF RELIGIOUS BELIEF AND PRACTICE.[16]

Succinctly, the Court is tasked to resolve whether or not the petitioner's religious ministers are its employees; and whether in ruling upon such issue, the Court infringes upon the constitutionally guaranteed right to free exercise of religion.

Ruling of the Court

The petition is ***not*** **meritorious.**

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13 Id. at 781-786.
14 Id. at 771-777.
15 Id. at 789-790.
16 Id. at 3-4.

Foremost, it must be stated that the issue of whether or not an employer-employee relationship exists is a question of fact that is beyond the province of a petition for review on *certiorari*. It is settled that this Court is not a trier of facts. Thus, findings of fact of administrative agencies if supported by substantial evidence shall not be disturbed on review, more so if they have been affirmed by the CA.[17] In this case, the Court sees no reason to depart from the factual determination by the SSS that the petitioner's religious ministers are its employees.

The principle of separation of church and state applies only to ecclesiastical affairs.

The Constitution commands that "[t]he separation of Church and State shall be inviolable";[18] it guarantees the free exercise of religious faith; and proscribes the State from establishing or favoring any religion.[19] These principles are based on mutual respect.[20] The Constitution delineates the boundaries between the two institutions in order to avoid encroachment by one against the other.[21] Thus, the State is prohibited from meddling in the internal affairs of the Church. Likewise, it cannot favor a religion nor discriminate upon another. The Church, on the other hand, cannot interfere into purely secular matters. It cannot impose its beliefs and convictions on the State and its citizens nor demand that the nation follow its beliefs, even if it sincerely believes that they are good for the country.[22]

For this purpose, it must be noted that the Constitution uses the word "Church" in its generic sense. It signifies religious congregations collectively.[23] Therefore, the term encompasses and the petitioner is covered by this constitutional provision.

Necessarily, in suits where one of the parties is a church or a religious institution, or one that involves the relationship of the church and its members, a preliminary inquiry is made as to whether the controversy concerns an ecclesiastical or purely religious affair as to bar the Court from taking cognizance of the same.

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17 *Signey v. Social Security System*, 566 Phil. 617, 624 (2008).
18 Article II, Section 6.
19 Article III, Section 5.
20 *Sps. Imbong v. Hon. Ochoa, Jr.*, 732 Phil. 1, 167 (2014).
21 *Pastor Austria v. NLRC*, 371 Phil. 340, 352-353 (1999).
22 *Sps. Imbong v. Hon. Ochoa, Jr.*, supra.
23 Id.

The scope and definition of an "ecclesiastical affair" is not novel. In the 1999 case of *Pastor Austria v. NLRC*,[24] the Court defined the same as:

> [O]ne that concerns doctrine, creed, or form of worship of the church, or the adoption and enforcement within a religious association of needful laws and regulations for the government of the membership, and the power of excluding from such associations those deemed unworthy of membership." Based on this definition, an ecclesiastical affair involves the relationship between the church and its members and relate to matters of faith, religious doctrines, worship and governance of the congregation. To be concrete, examples of this so-called ecclesiastical affairs to which the State cannot meddle are proceedings for excommunication, ordinations of religious ministers, administration of sacraments and other activities with attached religious significance.[25] (Citation omitted)

Based on the foregoing, just because a case involves the relationship between the Church and its religious ministers does not automatically bring it within the ambit of a purely religious affair.[26] It is the nature of the incident that arose as a result of the relationship between these two that must be looked into in order to rule whether the same is within the permissible sphere of judicial review. Specifically, an inquiry should be made whether the controversy seeks to enforce or aims to interpret doctrinal standards, or whether the acts subject thereof deals with the performance of activities of religious significance as opposed to the performance of administrative functions, in which case, the courts are barred from taking cognizance of the case.[27] Ultimately, the fine line which must be drawn between what the Court may or may not look into would have to be resolved depending on the attendant circumstances of a particular case.

An employer-employee relationship may exist between a religious organization and its ministers. It is the existence of this relationship that determines the status and triggers mandatory coverage under the SSS law.

The provisions of the Labor Code and its Implementing Rules and Regulations encompass religious institutions. The nature of these associations does not bar the formation of an employer-employee

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24 Supra note 21.
25 Id. at 353-354.
26 Id.
27 *Pasay City Alliance Church/CAMACOP/Rev. Willian Cargo v. Fe Benito*, G.R. No. 226908, November 28, 2019.

relationship. In fact, in this case, the petitioner admits that it is an employer with respect to its "ordinary employees" but takes exception with respect to its "officers/religious ministers who are ecclesiastics commissioned, ordained, and appointed" by it.[28]

For this purpose, the Court is empowered to determine the existence of an employer-employee relationship in religious institutions, a matter that is secular in nature. Markedly, this controversy is not concerned with the petitioner's criteria for engagement of its ministers. The Court need only to characterize their relationship for the purpose of resolving the officers/ ministers' membership status in the SSS.

R.A. No. 1161, as amended by R.A. No. 8282, the law in effect at the time the petitioner filed its request for conversion of membership status of its ministers in 2005, provides that the "[c]overage in the SSS shall be compulsory upon all employees not over sixty years of age and their employers."[29] The provision echoes Article 174 of the Labor Code which renders mandatory the coverage in State Insurance Fund of all employers from the first day of their operation during the effectivity of the Code and their employees, on the date of their employment, under certain conditions.[30]

It must be noted that this is not the first time that the Court resolved the issue of whether religious corporations are covered by the SSS Law. In *Archbishop of Manila v. Social Security System*,[31] a request was filed by the Roman Catholic Archbishop of Manila (RCAM) seeking exemption from the compulsory coverage under then Social Security Law of 1954 (R.A. No. 1161, as amended) of all religious and charitable institutions and/or organizations, directly or indirectly, wholly or partially, operated by it. The RCAM argued that Social Security Law is a labor law that applies only to businesses and activities organized for profit, and does not cover religious and charitable institutions.[32]

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28 *Rollo*, pp. 101-102.

29 REPUBLIC ACT NO. 1161, Section 9(a), as amended.

30 ARTICLE 174. [168] *Compulsory Coverage.* — Coverage in the State Insurance Fund shall be compulsory upon all employers and their employees not over sixty (60) years of age; *Provided*, That an employee who is over sixty (60) years of age and paying contributions to qualify for the retirement or life insurance benefit administered by the System shall be subject to compulsory coverage.
ARTICLE 176. [170] *Effective Date of Coverage.* — Compulsory coverage of the employer during the effectivity of this Title shall take effect on the first day of his operation, and that of the employee, on the date of his employment. *(Labor Code of the Philippines, Presidential Decree No. 442 (Amended & Renumbered), [July 21, 2015])*

31 110 Phil. 616 (1961).

32 Id. at 619-620.

In denying the petition, the Court held that the term "employer" as used in the Social Security Law is "sufficiently comprehensive enough as to include religious and charitable institutions or entities not organized for profit" particularly as they are not included in the list of exceptions expressly stated under the same law. [33]

The Court noted that prior to the amendment of R.A. No. 1161, "services performed in the employ of institutions organized for religious or charitable purposes were by express provisions of said Act excluded from coverage thereof." However, the exemption was deleted by R.A. No. 1792, which took effect in 1957. This, according to the Court, clearly evinces legislative intent to include charitable and religious institutions within the scope of the law.[34] Notably, the phrase expressly excluding religious organizations from the coverage of the SSS likewise does not appear in the pertinent SSS Law, *i.e.*, R.A. No. 8282.

Rather than the nature of an institution, coverage in the Social Security Law is predicated upon the existence of an employer-employee relationship. For this purpose, the terms "employer" and "employee" are defined as follows:

> (c) Employer- Any person, natural or juridical, domestic or foreign, who carries on in the Philippines any trade, business, industry, undertaking, or activity of any kind and uses the services of another person who is under his orders as regards the employment, except the Government and any of its political subdivisions, branches or instrumentalities, including corporations owned or controlled by the Government: *Provided*, That a self-employed person shall be both employee and employer at the same time.
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> (d) Employee - Any person who performs services for an employer in which either or both mental or physical efforts are used and who receives compensation for such services, where there is an employer-employee relationship: *Provided*, That a self-employed person shall be both employee and employer at the same time.

In *Bishop of Shinji Amari of Abiko Baptist Church v. Villaflor, Jr.*,[35] the Court recognized that an employer-employee relationship may exist between a religious organization and its ministers, judged on the basis of the institution's bylaws and other surrounding circumstances in relation to the four-fold test, namely: (a) selection and engagement of the employee, (b) payment of wages, (c) power of dismissal, (d) power to control. [36]

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33 Id.
34 Id. at 620.
35 G.R. No. 224521, February 17, 2020.
36 Id.

Examined in relation to the foregoing, the Court finds that an employer-employee relationship exists between the petitioner and its ministers. The CA's elucidation on this matter is telling:

> First, as shown by the evidence on record, [petitioner] selects its officers from among its suitable candidates on account of their health, age, spiritual experience, character, education, and ability. Prior to his appointment, a candidate needs to undergo training in a [The Salvation Army] training college or school. After completion, the candidate will be awarded a Certificate of Salvation Army Officer Training signed by the territorial commander with the rank of lieutenant. A formal undertaking is signed by the candidate which provides that after receiving Marching Orders from the School of Officers' Training, the officers serve as probationary officers for the designated period. As shown in the Agreement between the Salvation Army and Applicant dated July 1, 1962, the following are the relevant provisions which represents the power to select by [petitioner]:
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> x x x x
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> 4. To serve, if required, as a Probationary Officer for the designated period after receiving Marching Orders from the School for Officers' Training.
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> 5. To accept, the conclusions reached in a Five-Year Career Review of my work, even though it necessitates my withdrawal as an officer, and in such event, to return to my corps as a Soldier.
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> 6. To accept the Education Program of The Salvation Army for its officers, including the Candidates Lessons, Probationary Lessons, and at least four Advanced Training Courses during the first five years of officership.
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> Second, the officers receive allowances which according to the undertaking signed by them is not guaranteed and is not to be considered as wage, salary, reward, or payment of services but is a means of freeing the officers from the need to engage in secular employment. In fact, the officers agreed that they cannot engage in any secular employment, paid or unpaid, unless clearly authorized by [petitioner] in accordance with the orders and regulations.
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> Also, [petitioner] regularly paid the SS contributions for and in behalf of its officers since its registration with the SSS in 1962. Moreover, the Scale of Officer Allowance shows that the officers receive a monthly allowance in an amount fixed based on the number of years in service. Contrary to the contention of petitioner, the allowance received by its officers are equivalent to wages as defined in Article 97(f) of the Labor Code, thus:
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> **"Wage" paid to any employee shall mean the remuneration or earning, however designated, capable of being expressed in terms of money,** whether fixed or ascertained on a time, task, piece, or commission basis, **or**

> **other method of calculating the same, which is payable by an employer to an employee under a written or unwritten contract of employment for work done or to be done, or for services rendered or to be rendered, and includes the fair and reasonable value,** as determined by the Secretary of Labor, of board, lodging, or other facilities customarily furnished by the employer to the employee.

Third, with respect to the power of dismissal, the officers signed and agreed that [petitioner] will evaluate periodically their progress and personal effectiveness in the ministry and that [petitioner] may terminate their services based on persistent ineffectiveness. It is clear from the agreement between [petitioner] and its officers that [petitioner] has the power to dismiss the officers which is contrary to the allegations of [petitioner] that the officers' service to the ministry is purely voluntary.

Lastly, petitioner exercised the most important element of all, that is, control over the conduct of its officers in the latter's performance of their duties as officers of [petitioner]. As shown in the undertaking, the officers agreed to accept and faithfully teach the doctrines and standards of [petitioner]. Also, the officers agreed to abide by the orders and regulations of [petitioner] and to not do or say anything that may injure [petitioner] or reflect unfavorably upon its integrity and purpose. x x x

x x x x

As correctly pointed out by the SSC in its assailed Resolution dated November 6, 2013:

> Fourth. [Petitioner] likewise exercises control. The officers are mandated to accept the direction of their leaders in regard to their appointments and faithfully fulfill all the requirements thereof. They are subject at all times to the right of termination retained by [petitioner] . The officers' assignments to various positions and location in the Philippines are completely within the control of their superiors. They are required to conform to the petitioner's requirements regarding the wearing of uniform and they are required to sell literature or reading materials, as well as to account for all monies and other assets entrusted to them, and to keep and make available for inspection and audit purposes of all records.[37] (Citations omitted, underscoring and emphasis in the original)

The exclusivity of engagement, and the control[38] exerted by the petitioner over its ministers reinforce the conclusion that an employer-employee relationship exists between them. Along this line, it is inconsequential that the control refers to spiritual and ecclesiastical matters that extend to the minister's personal life; inasmuch as in resolving the

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37 *Rollo*, pp. 782-784.

38 Id. at 153.

instant case, the Court does not concern itself with the enforcement, propriety, or of the minister's compliance with such rules imposed by the petitioner. Neither does the Court command the petitioner whom to ordain or retain as its ministers nor dictate the extent of their authority over them, or instruct which rituals these ministers must observe to maintain their status.[39] The Court merely evaluates on the basis of the petitioner's rules, the relationship between the petitioner and its ministers for the proper classification of the latter's membership status in the SSS; there is thus no impermissible intrusion into the religious sphere.

In support of its stand, petitioner cites foreign jurisprudence involving its counterparts abroad. However, the Court finds the same irrelevant inasmuch as unlike in the instant appeal, these cases necessarily involve internal matters of church administration, which the State cannot interfere with.[40]

At any rate, even if faced with contradictory foreign jurisprudence, the result would remain the same since there are relevant Philippine laws, rules, and jurisprudence governing the subject matter. The Court is not bound by the law and decisions of foreign tribunals in deciding controversies brought before it involving matters which occurred within its territorial jurisdiction or entered into within the purview of Philippine legal system, particularly when there are applicable laws and rulings in this jurisdiction.

The coverage of a religious institution, such as the petitioner, in the SSS does not violate the non-establishment clause of the Constitution.

The creation of the SSS is an exercise of the State's police power.[41] The Social Security Law was enacted to safeguard employees against the hazards of disability, sickness, old age, and death in accordance with the protection afforded upon labor and the social justice thrust of the Constitution.[42]

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39 See *Schleicher v. Salvation Army* 218 F.3d 472.

40 See *McClure v. Salvation Army*, 460 F.2d 553, whereby the U.S. Court declared that an employment relationship exists between the Salvation Army and its minister McClure. Nonetheless, it refused to determine whether McClure has been the subject of discriminatory employment practices under Title VII of the Civil Rights Act of 1964, adjudging that the resolution of which would cause the State to intrude upon strictly ecclesiastical matters tantamount to an encroachment of religious freedom.

41 *Archbishop of Manila v. Social Security System*, supra note 31 at 621; REPUBLIC ACT NO. 1161, Section 2, as amended.

42 Id.; 1987 CONSTITUTION, Article II, Sections 10 and 18, Article XIII, Sections 1 and 3; 1935 CONSTITUTION, Article II, Section 5, Article XIV, Section 6; REPUBLIC ACT NO. 1161, Section 2, as amended.

The nature of the petitioner as a religious institution does not exempt it from the coverage of the SSS. In *Catholic Archbishop of Manila v. Social Security System*,[43] decided in 1961, the rationale for the ruling nonetheless still applies, the Court opined:

> x x x Being in fact a social legislation, compatible with the policy of the Church to ameliorate living conditions of the working class, appellant cannot arbitrarily delimit the extent of its provisions to relations between capital and labor in industry and agriculture.
>
> There is no merit in the claim that the inclusion of religious organizations under the coverage of the Social Security Law violates the constitutional prohibition against the application of public funds for the use, benefit or support of any priest who might be employed by appellant. **The funds contributed to the System created by the law are not public funds, but funds belonging to the members which are merely held in trust by the Government. At any rate, assuming that said funds are impressed with the character of public funds, their payment as retirement death or disability benefits would not constitute a violation of the cited provisions of the Constitution, since such payment shall be made to the priest not because he is a priest but because he is an employee.**
>
> Neither may it be validly argued that the enforcement of the Social Security Law impairs appellant's right to disseminate religious information. All that is required of appellant is to make monthly contributions to the System for covered employees in its employ. These contributions, contrary to appellant's contention, are not in the nature of taxes on employment. Together with the contributions imposed upon the employees and the Government, they are intended for the protection of said employees against the hazards of disability, sickness, old age and death in line with the constitutional mandate to promote social justice to insure the well-being and economic security of all the people.[44] (Emphasis supplied)

The application of the provisions of the SSS to the petitioner, a religious institution, does not offend the non-establishment clause of the Constitution. "Establishment" requires a positive action on the part of the State involving the use of government resources with the primary intention of setting up or adhering to a particular religion.[45] Simply, in "establishment" there are two factors that concur: *one,* there must be a government action, the primary consideration for which must be religion; and *second,* that public money or property is employed primarily for the furtherance of a particular church. In other words, the aid, excessive entanglement, or preference exhibited by the government must be on

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43 Supra note 31.

44 Id. at 621-622.

45 *Re: Letter of Valenciano, Holding of Religious Rituals at the Hall of Justice Bldg. in QC*, 806 Phil. 822, 850 (2017).

account of religion or directed towards religious matters and realized with the use of government resources.[46]

In this case, the petitioner is dealt with not as a religious institution but as an employer of its ministers. It is in this capacity that the petitioner's obligation to register and extend the benefits under the SSS law in favor of its ministers arose. The funds involved are not owned by the government but merely held in trust for the members who are the beneficiaries thereof. Irrespective of whether the funds are characterized as public in nature, there is no "establishment" to speak of as the social security benefit is given to ministers not on account of their religion but as employees of the petitioner; the religious character of the nature of their employment is merely incidental to the extension of the coverage in the SSS law.[47]

In closing, it bears to mention that the State, in the enforcement of the SSS law, and the Church, in the propagation and practice of its belief, are motivated by the common objective of social justice. The Court recognizes the petitioner's adherence to this goal with its admission of employer status and corresponding registration of its ordinary employees. In consideration of these, the Court resolves this appeal granting employee status to petitioner's officers and ministers, to give force and meaning to Constitutional guarantees and by way of a shared expression of unity to this common aspiration.

WHEREFORE, in consideration of the foregoing disquisitions, the instant petition for review on *certiorari* is **DENIED**. Accordingly, the Decision dated September 30, 2016 and Resolution dated February 21, 2017, of the Court of Appeals in CA-G.R. SP No. 142049, are hereby **AFFIRMED**.

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

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46 Id. at 851.
47 Id.

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. 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.

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