



SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

HARBOUR CENTRE PORT  
TERMINAL, INC.,  
*Petitioner,*

G.R. No. 240984

- versus -

LA FILIPINA UYGONGCO  
CORP. and PHILIPPINE  
FOREMOST MILLING CORP.,  
*Respondents.*

x-----x  
MICHAEL L. ROMERO,  
*Petitioner,*

G.R. No. 241120

Present:

- versus -

PERLAS-BERNABE, S.A.J.,  
*Chairperson,*  
HERNANDO,  
INTING,  
GAERLAN, and  
DIMAAMPAO, JJ.

LA FILIPINA UYGONGCO  
CORP. and PHILIPPINE  
FOREMOST MILLING CORP.,  
*Respondents.*

Promulgated:

SEP 27 2021 *[Signature]*

x-----x

DECISION

HERNANDO, J.:

These petitions for review on *certiorari*<sup>1</sup> assail the July 13, 2017 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 38210 which

<sup>1</sup> Rollo (G.R. No. 240984), pp. 18-44-A; rollo (G.R. No. 241120), pp. 13-51.

<sup>2</sup> Rollo (G.R. No. 240984), pp. 46-60. Penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Marie Christine Azcarraga-Jacob.

reversed and set aside the February 2, 2015 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Manila, Branch 42 in Civil Case No. 09-121953, finding Harbour Centre Port Terminal, Inc. (HCPTI), Michael L. Romero (Romero), Edwin L. Jeremillo (Jeremillo), and Henry Rophen V. Virola (Virola), guilty of Indirect Contempt for violating the Writ of Preliminary Injunction (WPI)<sup>4</sup> issued by Branch 24 of the RTC of Manila (RTC Branch 24) on September 25, 2008. The assailed July 24, 2018 Resolution<sup>5</sup> of the appellate court denied herein petitioners' motion for reconsideration.

### **Factual Antecedents:**

On November 19, 2004, HCPTI, the operator of the Manila Harbour Centre, on one hand, and La Filipina Uygongco Corp. (LFUC), an enterprise engaged in the importation and trading of fertilizers, milk and dairy products, soybean meal and sugar, together with its sister company Philippine Foremost Milling Corp. (PFMC), an entity primarily organized to import and mill wheat, flour and animal foods, on the other hand, entered into a Memorandum of Agreement (MOA)<sup>6</sup> which provided, among others, priority berthing rights to the domestic and foreign vessels of respondents LFUC and PFMC.

In 2008, the parties' relationship turned fetid. On August 29, 2008, HCPTI sent a letter to respondents LFUC and PFMC informing them of their accountabilities amounting to ₱362,670,820.42 representing rental, overhauling, and additional wharfage fees, short payments, and other receivables.<sup>7</sup>

By way of response, respondents LFUC and PFMC alleged that HCPTI failed to provide priority berthing to their vessels and to conduct dredging to maintain the depth of the navigational access channel and berthing area. Consequently, respondents LFUC and PFMC filed a Complaint for Compliance with Maritime Law, Regulation and Contract, Breach of Contract, Specific Performance and Damages docketed as Civil Case No. 08-119957 against petitioner HCPTI before the RTC.<sup>8</sup>

On even date, respondents' application for a 72-hour restraining order was granted.<sup>9</sup> On September 11, 2008, the trial court granted respondents' application for a 20-day Temporary Restraining Order (TRO).<sup>10</sup> Eventually, a WPI<sup>11</sup> was issued by Branch 24 of the RTC of Manila on September 25, 2008,

<sup>3</sup> Id. at 245-256. Penned by Judge Dinnah G. Aguila-Topacio.

<sup>4</sup> Id. at 90-92.

<sup>5</sup> Id. at 62-66.

<sup>6</sup> Id. at 85-89.

<sup>7</sup> See id. at 22-33 and 48.

<sup>8</sup> See id. at 95.

<sup>9</sup> See id.

<sup>10</sup> See id. at 96.

<sup>11</sup> Id. at 90-92.

which enjoined HCPTI from preventing respondents LFUC and PFMC access to its rail lines and unloaders, and from using the port facilities of HCPTI, among others.

However, from March 9, 2009 to June 28, 2009, around twenty-four (24) barges and tugboats classified as domestic vessels chartered by respondents LFUC and PFMC were either not allowed access to their unloaders and rail lines, or were delayed in using the berthing area fronting their facilities, in violation of the November 19, 2004 MOA and the WPI issued by RTC Branch 24.

During the said periods, respondents' barges were not permitted to berth in their assigned berthing area despite the fact that they were ready for berthing and notwithstanding that the proper documentations were already submitted by respondents to HCPTI such as the PPA Application for Berth/Anchorage, an HCPTI Commitment Sheet and Request for Berth Application.

There were even instances when respondents' barges were allowed to berth at the berthing area, only to be ordered to vacate the same before the cargoes were fully discharged or unloaded. As a consequence, respondents were constrained to rent the said barges for an extended period of time thereby causing them to incur additional expenses. Respondents were also forced to unload some of their cargoes at the property owned by the Philippine National Bank adjacent to the berthing area, which resultantly caused them to pay unnecessary charges.

This prompted respondents LFUC and PFMC to file a Petition for Indirect Contempt<sup>12</sup> on August 13, 2009 against HCPTI and individual respondents therein Virola, Romero, and Jeremillo, in their capacities as Vice President for Operations, President and Chief Executive Officer, and Chief Operating Officer for Administration, respectively, before the RTC of Manila. Respondents averred that HCPTI and its officers willfully violated the WPI issued by RTC Branch 24 as well as the provisions of the November 19, 2004 MOA when they denied respondents access to and use of its rail lines, unloaders and port facilities.

In its Answer,<sup>13</sup> HCPTI denied the accusations of respondents. It claimed that respondents either failed to apply for berthing for any or all of the vessels allegedly denied priority berthing, or some of the said vessels were never serviced at all by HCPTI during the period from March 19, 2010 to June 28, 2010. HCPTI further argued that a charge for Indirect Contempt is criminal in

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<sup>12</sup> Id. at 93-102.

<sup>13</sup> Id. at 138-148.

nature and thus, the rules of evidence in contempt proceedings should be applied as far as practicable.

**Ruling of the Regional Trial Court:**

The RTC Branch 42, in its February 2, 2015 Decision,<sup>14</sup> dismissed the Petition for Indirect Contempt. It ratiocinated that pursuant to Sections 3 and 4 of the MOA, priority berthing for respondents' domestic vessels can be availed of only when the two requirements set forth are met: first, the Locators, respondents herein, serve a Final Advice of Arrival (FAA) upon HCPTI; and second, the Berthing Area is vacant.

The RTC Branch 42 found that no written FAA was submitted by respondents to HCPTI in contravention of the MOA. Moreover, the delay in the berthing of the subject vessels was due to the failure of the respondents to indicate their vessels' Expected Time of Arrival (ETA) in some of their Berth Applications.

Respondents moved for reconsideration which the RTC Branch 42 denied in an Order<sup>15</sup> dated October 8, 2015.

Aggrieved, respondents elevated the case to the CA. They averred that their failure to furnish HCPTI with the written advice of their vessels' arrival was not a valid reason to deny them of berthing rights. They argued that for the last three years prior to 2008 before the present dispute arose and even after the petition for indirect contempt was filed, they have been allowed priority berthing rights even without their submission of the FAA and other documents. They also claimed that they need not inform HCPTI of the ETA of their barges since HCPTI was aware of their vessels' arrival because they were merely 200 meters away from the berthing area.

In their brief,<sup>16</sup> petitioners insisted that the appeal filed by respondents should be dismissed even without necessarily delving into the merits because the February 2, 2015 Decision of the RTC dismissing the petition for Indirect Contempt bars a second prosecution. They maintained that the dismissal is akin to an acquittal of an accused in a criminal case, hence, could not be the subject of an appeal.<sup>17</sup>

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<sup>14</sup> Id. at 245-256.

<sup>15</sup> Id. at 264-271.

<sup>16</sup> See id. at 53-54.

<sup>17</sup> Id. at 54.

**Ruling of the Court of Appeals:**

In its July 13, 2017 Decision,<sup>18</sup> the appellate court did not sustain the finding of the trial court and instead found petitioners liable for Indirect Contempt for willfully violating the WPI issued by the RTC Branch 24 and failing to comply with the November 19, 2004 MOA. It further held that contrary to the contention of the petitioners, the petition for indirect contempt filed by respondents is not criminal but civil in nature since the primordial objective of the petition was to compel obedience to the injunctive writ for the benefit of respondents.

The motions for reconsideration filed by petitioners HCPTI and Romero were denied by the appellate court in a Resolution<sup>19</sup> dated July 24, 2018.

Undaunted, petitioner HCPTI appealed the July 13, 2017 Decision and July 24, 2018 Resolution via the instant petition for review, docketed as G.R. No. 240984. Petitioner Romero's appeal was docketed as G.R. No. 241120.

In a Resolution dated April 8, 2019,<sup>20</sup> the two cases were ordered consolidated as they involve the same parties and issues and assail the same CA Decision.

**Issues**

- 1) Whether or not the CA erred in holding petitioners liable for indirect contempt; and
- 2) Whether or not the CA erred in finding the present petition for indirect contempt civil in nature.

Petitioners insist that they could not be held guilty of indirect contempt since respondents themselves violated the terms of the November 19, 2004 MOA when they failed to serve HCPTI with a written FAA of their barges as well as their ETA. This failure on the part of respondents prevented HCPTI from determining the exact time of arrival of respondents' vessels such that they had to allocate the vacant berthing area to another available vessel that is ready for berthing. Further, petitioners reiterate that the petition for indirect contempt is criminal in nature. Ergo, the RTC Decision dismissing the petition amounted to an acquittal, hence, an appeal does not lie.

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<sup>18</sup> Id. at 46-60.

<sup>19</sup> Id. at 62-66.

<sup>20</sup> Id. at 409.

### Our Ruling

Petitioners' contentions are partly meritorious.

In *Oca v. Custodio*,<sup>21</sup> the Court distinguished criminal contempt from civil contempt, as follows:

The punishment for contempt is classified into two (2): civil contempt and criminal contempt.

Civil contempt is committed when a party fails to comply with an order of a court or judge "for the benefit of the other party." A criminal contempt is committed when a party acts against the court's authority and dignity or commits a forbidden act tending to disrespect the court or judge.

This stems from the two (2)-fold aspect of contempt which seeks: (i) to punish the party for disrespecting the court or its orders; and (ii) to compel the party to do an act or duty which it refuses to perform.

In *Halili v. Court of Industrial Relations*:

Due to this twofold aspect of the exercise of the power to punish them, contempts are classified as civil or criminal. *A civil contempt is the failure to do something ordered to be done by a court or a judge for the benefit of the opposing party therein;* and a criminal contempt, is conduct directed against the authority and dignity of a court or of a judge, as in unlawfully assailing or discrediting the authority or dignity of the court or judge, or in doing a duly forbidden act. Where the punishment imposed, whether against a party to a suit or a stranger, is wholly or primarily to protect or vindicate the dignity and power of the court, either by fine payable to the government or by imprisonment, or both, it is deemed a judgment in a criminal case. Where the punishment is by fine directed to be paid to a party in the nature of damages for the wrong inflicted, or by imprisonment as a coercive measure to enforce the performance of some act for the benefit of the party or in aid of the final judgment or decree rendered in his behalf, the contempt judgment will, if made before final decree, be treated as in the nature of an interlocutory order, or, if made after final decree, as remedial in nature, and may be reviewed only on appeal from the final decree, or in such other mode as is appropriate to the review of judgments in civil cases. x x x The question of whether the contempt committed is civil or criminal, does not affect the jurisdiction or the power of a Court to punish the same.

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<sup>21</sup> 814 Phil. 641 (2017).

The difference between civil contempt and criminal contempt was further elaborated in *People v. Godoy*:

It has been said that the real character of the proceedings is to be determined by the relief sought, or the dominant purpose, and the proceedings are to be regarded as criminal when the purpose is primarily punishment, and civil when the purpose is primarily compensatory or remedial.

Criminal contempt proceedings are generally held to be in the nature of criminal or quasi-criminal actions. They are punitive in nature, and the Government, the courts, and the people are interested in their prosecution. Their purpose is to preserve the power and vindicate the authority and dignity of the court, and to punish for disobedience of its orders. Strictly speaking, however, they are not criminal proceedings or prosecutions, even though the contemptuous act involved is also a crime. The proceeding has been characterized as *sui generis*, partaking of some of the elements of both a civil and criminal proceeding, but really constituting neither. In general, criminal contempt proceedings should be conducted in accordance with the principles and rules applicable to criminal cases, in so far as such procedure is consistent with the summary nature of contempt proceedings. So it has been held that the strict rules that govern criminal prosecutions apply to a prosecution for criminal contempt, that the accused is to be afforded many of the protections provided in regular criminal cases, and that proceedings under statutes governing them are to be strictly construed. However, criminal proceedings are not required to take any particular form so long as the substantial rights of the accused are preserved.

Civil contempt proceedings are generally held to be remedial and civil in their nature; that is, *they are proceedings for the enforcement of some duty, and essentially a remedy for coercing a person to do the thing required*. As otherwise expressed, a proceeding for civil contempt is *one instituted to preserve and enforce the rights of a private party to an action and to compel obedience to a judgment or decree intended to benefit such a party litigant*. So a proceeding is one for civil contempt, regardless of its form, *if the act charged is wholly the disobedience, by one party to a suit, of a special order made in behalf of the other party and the disobeyed order may still be obeyed, and the purpose of the punishment is to aid in an enforcement of obedience. The rules of procedure governing criminal contempt proceedings, or criminal prosecutions, ordinarily are inapplicable to civil contempt proceedings*.

**In general, civil contempt proceedings should be instituted by an aggrieved party, or his successor, or someone who has a pecuniary interest in the right to be protected. In criminal contempt proceedings, it is generally held that the State is the real prosecutor.**

Contempt is not presumed. In proceedings for criminal contempt, the defendant is presumed innocent and the burden is on the prosecution to prove the charges beyond reasonable doubt. In proceedings for civil contempt, there is no presumption, although the burden of proof is on the complainant, and *while the proof need not be beyond reasonable doubt, it must amount to more than a mere preponderance of evidence. It has been said that the burden of proof in a civil contempt proceeding lies somewhere between the criminal "reasonable doubt" burden and the civil "fair preponderance" burden.*

Civil contempt proceedings seek to compel the contemnor to obey a court order, judgment, or decree which he or she refuses to do for the benefit of another party. It is for the enforcement and the preservation of a right of a private party, who is the real party in interest in the proceedings. The purpose of the contemnor's punishment is to compel obedience to the order. Thus, civil contempt is not treated like a criminal proceeding and proof beyond reasonable doubt is not necessary to prove it.<sup>22</sup> (Emphasis supplied; italics in the original; citations omitted)

In the case at bar, respondents prayed for the following reliefs in their petition for indirect contempt, as follows:

- a) DECLARE [petitioners] guilty of indirect contempt under Section (b) of Rule 71 of the 1997 Rules of Civil Procedure;
- b) ORDER HCPTI and each of the individual [petitioners] to pay the fine of thirty thousand pesos (P30,000.00) each;
- c) ORDER that each of the individual [petitioners] be imprisoned for six (6) months; and
- d) ORDER each of the [petitioner] jointly and severally liable to pay [respondents] in the amount of SIXTEEN MILLION SEVEN HUNDRED TWELVE THOUSAND SEVEN HUNDRED EIGHTY-NINE and 27/100 (P16,712,789.27), and other demurrage and unloading costs that may be incurred should [petitioners] continue to violate the writ of preliminary injunction after the filing of the instant petition.<sup>23</sup>

While the reliefs prayed for by respondents is a combination of both criminal and civil punishment, the nature of the contempt proceeding in this case is more civil than criminal. To recall, respondents alleged that during the period March 9, 2009 to June 28, 2009, thirty-nine (39) of its vessels and barges were denied access to HCPTI's rail lines and unloaders and the use of its port facilities in violation of the WPI and the November 19, 2004 MOA.

Clearly, the purpose of the contempt petition was for the enforcement of the September 25, 2008 WPI. It is a remedy resorted to preserve and enforce the rights of respondents and to compel obedience to the injunctive writ which

<sup>22</sup> Id. at 678-680.

<sup>23</sup> *Rollo* (G.R. No. 240984), p. 101.



was issued for their benefit. Hence, the petition for contempt is civil in nature. Accordingly, an appeal from the decision dismissing the same is not barred by double jeopardy. The appellate court was therefore correct in holding that the petition for indirect contempt instituted by the respondents herein is civil in nature.

Be that as it may, We find that petitioners are not guilty of indirect contempt.

Contempt of court is defined as a disobedience to the court by acting in opposition to its authority, justice, and dignity. It signifies not only a willful disregard or disobedience of the court's order, but such conduct which tends to bring the authority of the court and the administration of law into disrepute or, in some manner, to impede the due administration of justice. It is a defiance of the authority, justice, or dignity of the court which tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice party-litigants or their witnesses during litigation.<sup>24</sup>

The power to punish for contempt is inherent in all courts and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the court, and consequently, to the due administration of justice.<sup>25</sup> "However, such power should be exercised on the preservative, not on the vindictive, principle. Only occasionally should the court invoke its inherent power in order to retain that respect[,] without which the administration of justice will falter or fail."<sup>26</sup> Only in cases of clear and contumacious refusal to obey should the power be exercised. Such power, being drastic and extraordinary in its nature, should not be resorted to unless necessary in the interest of justice.<sup>27</sup>

In this case, HCPTI's failure to provide priority berthing rights to respondents' vessels during the period material to the case was not intended to undermine the authority of the court or an act of disobedience to the September 25, 2008 WPI of the RTC Branch 24.

To recall, the WPI enjoined HCPTI and any of its agents from "preventing plaintiffs access to its rail lines and unloaders and from using the port facilities of HCPTI." It likewise directed the Philippine Ports Authority (PPA) to "ensure that HCPTI is enjoined from the acts complained of, particularly any act that would prevent plaintiffs from utilizing the port facilities of defendant HCPTI in accordance with the MOA dated November 19, 2004."

<sup>24</sup> *Bank of the Philippine Islands v. Calanza*, 647 Phil. 507, 514 (2010), (Citation omitted).

<sup>25</sup> *Inonog v. Ibay*, 611 Phil. 560, 568 (2009).

<sup>26</sup> *Lu Ym v. Mahinay*, 524 Phil. 564, 573 (2006).

<sup>27</sup> *Oca v. Custodio*, supra note 15 at 683.

The injunction order, therefore, recognized the applicability of the MOA in the enforcement of the WPI.

Under the MOA, respondents were given priority berthing rights over the berth fronting their facility, subject to the conditions set forth in Sections 3 and 4 of the said MOA, *viz.*:

Section 3. *Domestic (Coastwise) Vessels' Port and Handling Charges.* - HCPTI shall allow the berthing of the Locator's domestic (coastwise) vessels at the Berthing Area, provided that the Locators serve a written final advice of arrival upon HCPTI. It is understood that should the Locators' domestic (coastwise) vessel be unable to berth at the Berthing Area due to congestion caused by the volume of other vessels being accommodated by HCPTI, or for any other reasonable causes, HCPTI shall allow the Locators' domestic (coastwise) vessels to discharge in the nearest vacant berth other than the Berthing Area. However, should the berthing area be vacated, the Locators' domestic (coastwise) vessels shall be allowed to immediately transfer to the Berthing Area at the expense of the Locators. x x x

Section 4. - *Priority Berthing.* The Locators shall continue to have the right to priority berthing at the Harbour Centre Port Terminal as defined in Section 1(a) of this Agreement and shall be strictly implemented, as follows:

a. Foreign bulk carrier vessels chartered by Locators.

1. Foreign bulk carrier vessels chartered by the Locators shall have priority berthing in the Berthing Area over any other vessels being served by HCPTI upon submission of the Locators' final advice of arrival. xxx

b. Domestic (Coastwise) Vessels of Locators.

Domestic (coastwise) vessels owned or chartered by the locators shall likewise enjoy priority berthing when the berthing Area is vacant. But should the Berthing Area be occupied by a Third party vessel whose operation is already in progress upon arrival of the Locators' vessel, the Third Party vessel shall be allowed to complete its operation at the Berthing Area or shall be shifted to another available berth to give way to the Locators' vessel, at the option of HCPTI.<sup>28</sup>

In short, respondents' priority berthing rights is not absolute. The same is conditioned on: 1) the submission of the required documents such as a written FAA of its vessels to HCPTI; and 2) the availability of the designated berthing area. In this case, the RTC Branch 24 found that respondents did not submit a written FAA to HCPTI in violation of the November 19, 2004 MOA. This was admitted no less by respondents' own witness, Love Lee, Logistics Manager of PFMC.<sup>29</sup> Moreover, the MOA provides that if the berthing area is occupied

<sup>28</sup> *Rollo* (G.R. No. 240984), pp. 86-87.

<sup>29</sup> *Id.* at 251.

by another vessel, respondents' vessels will have to wait until it is vacated by the third party vessel either after the completion of its discharge or upon its transfer to another berthing area.<sup>30</sup>

Petitioners' witness, Bryan D. Gayagoy, Senior Manager for Planning of HCPTI, testified that some of respondents' berth applications did not contain the ETA of their vessels to allow HCPTI to schedule their berthing. Without foreknowledge of when these barges would arrive, HCPTI would, thus, be justified to allocate the vacant berthing area to the other vessels which are at that time ready for berthing, to maximize its utilization. He explained that without the ETA, there is no way for them to know when respondents' vessel would arrive.

Arguing against it, respondents contend that HCPTI could not deny awareness of the arrival of respondents' barges because they were located merely 200 meters away from the berthing area.

This contention is specious.

To reiterate, respondents' priority berthing right is subject to the condition that the berthing area is vacant. Thus, even if respondents' vessels are already near the vicinity of petitioners' terminals, if the berthing area is occupied by a third party vessel, respondents' barges could not be immediately accommodated. It must wait until after the unloading of the third party vessel has been completed or it has transferred to another berthing area. It is only when no other vessel is available for berthing at the time the berth application is filed that the vessel with no ETA would be provisionally scheduled for berthing.<sup>31</sup>

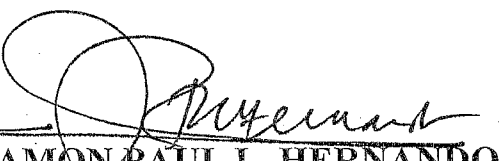
In fine, considering that petitioners' failure to provide priority berthing rights to respondents' vessels during the time material to the instant case was due to respondents' own failure to comply with the requirements mandated in the November 19, 2004 MOA, We find that petitioners did not commit any act amounting to indirect contempt.

**WHEREFORE**, the instant petitions are hereby **GRANTED**. The assailed July 13, 2017 Decision and July 24, 2018 Resolution of the Court of Appeals in CA-GR. CR No. 38210 are **REVERSED** and **SET ASIDE**. Accordingly, the February 2, 2015 Decision and October 8, 2015 Order of the Regional Trial Court of Manila, Branch 42 are hereby **REINSTATED**.


<sup>30</sup> Id. at 177; Judicial Affidavit of Bryan D. Gayagoy.


<sup>31</sup> Id. at 178.


**SO ORDERED.**

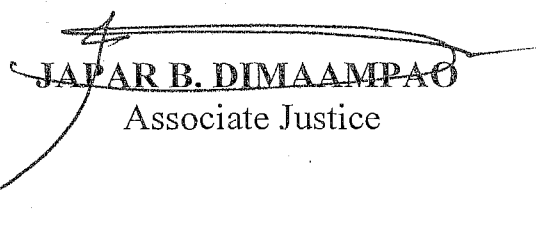
  
**RAMON PAUL L. HERNANDO**  
Associate Justice

**WE CONCUR:**

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

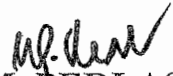
  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
Associate Justice

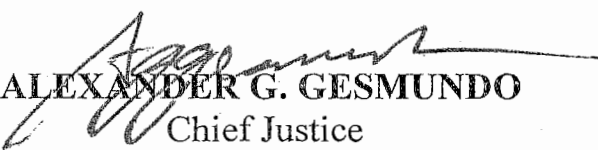
**ATTESTATION**

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

**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