



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

**MARICRIS D. DOLOT, Chairman  
of the BAGONG ALYANSANG  
MAKABAYAN-SORSOGON,**  
Petitioner,

**G.R. No. 199199**

Present:

SERENO, C.J.,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,\*  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
ABAD,  
VILLARAMA, JR.,\*\*  
PEREZ,  
MENDOZA,  
REYES,  
PERLAS-BERNABE, and  
LEONEN, JJ.

- versus -

**HON. RAMON PAJE, in his  
capacity as the Secretary of the  
Department of Environment and  
Natural Resources, REYNULFO A.  
JUAN, Regional Director, Mines  
and Geosciences Bureau, DENR,  
HON. RAUL R. LEE, Governor,  
Province of Sorsogon, ANTONIO  
C. OCAMPO, JR., VICTORIA A.  
AJERO, ALFREDO M. AGUILAR,  
and JUAN M. AGUILAR,  
ANTONES ENTERPRISES,  
GLOBAL SUMMIT MINES  
DEV'T CORP., and TR ORE,**

Respondents.

Promulgated:

AUGUST 27, 2013

X-----X

\* On leave.  
\*\* On official leave.

## DECISION

### REYES, J.:

This is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Order<sup>2</sup> dated September 16, 2011 and Resolution<sup>3</sup> dated October 18, 2011 issued by the Regional Trial Court (RTC) of Sorsogon, Branch 53. The assailed issuances dismissed Civil Case No. 2011-8338 for Continuing Mandamus, Damages and Attorney's Fees with Prayer for the Issuance of a Temporary Environment Protection Order.

### Antecedent Facts

On September 15, 2011, petitioner Maricris D. Dolot (Dolot), together with the parish priest of the Holy Infant Jesus Parish and the officers of Alyansa Laban sa Mina sa Matnog (petitioners), filed a petition for continuing mandamus, damages and attorney's fees with the RTC of Sorsogon, docketed as Civil Case No. 2011-8338.<sup>4</sup> The petition contained the following pertinent allegations: (1) sometime in 2009, they protested the iron ore mining operations being conducted by Antones Enterprises, Global Summit Mines Development Corporation and TR Ore in *Barangays* Balocawe and Bon-ot Daco, located in the Municipality of Matnog, to no avail; (2) Matnog is located in the southern tip of Luzon and there is a need to protect, preserve and maintain the geological foundation of the municipality; (3) Matnog is susceptible to flooding and landslides, and confronted with the environmental dangers of flood hazard, liquefaction, ground settlement, ground subsidence and landslide hazard; (4) after investigation, they learned that the mining operators did not have the required permit to operate; (5) Sorsogon Governor Raul Lee and his predecessor Sally Lee issued to the operators a small-scale mining permit, which they did not have authority to issue; (6) the representatives of the Presidential Management Staff and the Department of Environment and Natural Resources (DENR), despite knowledge, did not do anything to protect the interest of the people of Matnog;<sup>5</sup> and (7) the respondents violated Republic Act (R.A.) No. 7076 or the People's Small-Scale Mining Act of 1991, R.A. No. 7942 or the Philippine Mining Act of 1995, and the Local Government Code.<sup>6</sup> Thus, they prayed for the following reliefs: (1) the issuance of a writ commanding the respondents to immediately stop the mining operations in the Municipality of Matnog; (2) the issuance of a temporary environment protection order or TEPO; (3) the creation of an

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<sup>1</sup> *Rollo*, pp. 4-17.

<sup>2</sup> Penned by Presiding Judge Rofebar F. Gerona; id. at 34-35.

<sup>3</sup> Penned by Executive Judge Victor C. Gella; id. at 43-45.

<sup>4</sup> Id. at 21-33.

<sup>5</sup> Id. at 22-25.

<sup>6</sup> Id. at 25-29.

inter-agency group to undertake the rehabilitation of the mining site; (4) award of damages; and (5) return of the iron ore, among others.<sup>7</sup>

The case was referred by the Executive Judge to the RTC of Sorsogon, Branch 53 being the designated environmental court.<sup>8</sup> In the Order<sup>9</sup> dated September 16, 2011, the case was summarily dismissed for lack of jurisdiction.

The petitioners filed a motion for reconsideration but it was denied in the Resolution<sup>10</sup> dated October 18, 2011. Aside from sustaining the dismissal of the case for lack of jurisdiction, the RTC<sup>11</sup> further ruled that: (1) there was no final court decree, order or decision yet that the public officials allegedly failed to act on, which is a condition for the issuance of the writ of continuing mandamus; (2) the case was prematurely filed as the petitioners therein failed to exhaust their administrative remedies; and (3) they also failed to attach judicial affidavits and furnish a copy of the complaint to the government or appropriate agency, as required by the rules.<sup>12</sup>

Petitioner Dolot went straight to this Court on pure questions of law.

### **Issues**

The main issue in this case is whether the RTC-Branch 53 has jurisdiction to resolve Civil Case No. 2011-8338. The other issue is whether the petition is dismissible on the grounds that: (1) there is no final court decree, order or decision that the public officials allegedly failed to act on; (2) the case was prematurely filed for failure to exhaust administrative remedies; and (3) the petitioners failed to attach judicial affidavits and furnish a copy of the complaint to the government or appropriate agency.

### **Ruling of the Court**

#### **Jurisdiction and Venue**

In dismissing the petition for lack of jurisdiction, the RTC, in its Order dated September 16, 2011, apparently relied on SC Administrative Order (A.O.) No. 7 defining the territorial areas of the Regional Trial Courts in

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<sup>7</sup> Id. at 29-32.

<sup>8</sup> Id. at 34.

<sup>9</sup> Id. at 34-35.

<sup>10</sup> Id. at 43-45.

<sup>11</sup> The motion for reconsideration was resolved by the Pairing Judge of Branch 53 since the Presiding Judge recused himself from the case.

<sup>12</sup> *Rollo*, pp. 43-44.

Regions 1 to 12, and Administrative Circular (Admin. Circular) No. 23-2008,<sup>13</sup> designating the environmental courts “to try and decide violations of environmental laws x x x **committed within their respective territorial jurisdictions.**”<sup>14</sup> Thus, it ruled that its territorial jurisdiction was limited within the boundaries of Sorsogon City and the neighboring municipalities of Donsol, Pilar, Castilla, Casiguran and Juban and that it was “bereft of jurisdiction to entertain, hear and decide [the] case, as such authority rests before another co-equal court.”<sup>15</sup>

Such reasoning is plainly erroneous. The RTC cannot solely rely on SC A.O. No. 7 and Admin. Circular No. 23-2008 and confine itself within its four corners in determining whether it had jurisdiction over the action filed by the petitioners.

None is more well-settled than the rule that jurisdiction, which is the power and authority of the court to hear, try and decide a case, is conferred by law.<sup>16</sup> It may either be over the nature of the action, over the subject matter, over the person of the defendants or over the issues framed in the pleadings.<sup>17</sup> By virtue of Batas Pambansa (B.P.) Blg. 129 or the Judiciary Reorganization Act of 1980, jurisdiction over special civil actions for *certiorari*, prohibition and *mandamus* is vested in the RTC. Particularly, Section 21(1) thereof provides that the RTCs shall exercise original jurisdiction –

in the issuance of writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunction **which may be enforced in any part of their respective regions.** (Emphasis ours)

A.O. No. 7 and Admin. Circular No. 23-2008 was issued pursuant to Section 18 of B.P. Blg. 129, which gave the Court authority to define the territory over which a branch of the RTC shall exercise its authority. These administrative orders and circulars issued by the Court merely provide for the venue where an action may be filed. The Court does not have the power to confer jurisdiction on any court or tribunal as the allocation of jurisdiction is lodged solely in Congress.<sup>18</sup> It also cannot be delegated to another office or agency of the Government.<sup>19</sup> Section 18 of B.P. Blg. 129, in fact,

<sup>13</sup> Re: Designation of Special Courts to Hear, Try and Decide Environmental Cases. Issued by the Court on January 28, 2008. Branch 53 of Sorsogon is one of the special courts designated in the Fifth Judicial Region. The other courts are Branch 1 (Legaspi City), Branch 13 (Ligao City), Branch 15 (Tabaco City), Branch 25 (Naga City), Branch 32 (Pili), Branch 35 (Iriga City), Branch 38 (Daet) and Branch 47 (Masbate City).

<sup>14</sup> *Rollo*, p. 34.

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

<sup>16</sup> *Landbank of the Philippines v. Villegas*, G.R. No. 180384, March 26, 2010, 616 SCRA 626, 630.

<sup>17</sup> *Platinum Tours & Travel, Inc. v. Panlilio*, 457 Phil. 961, 967 (2003).

<sup>18</sup> *Gomez-Castillo v. Commission on Elections*, G.R. No. 187231, June 22, 2010, 621 SCRA 499, 507.

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

explicitly states that the territory thus defined shall be deemed to be the territorial area of the branch concerned **for purposes of determining the venue of all suits, proceedings or actions**. It was also clarified in *Office of the Court Administrator v. Judge Matas*<sup>20</sup> that –

Administrative Order No. 3 [defining the territorial jurisdiction of the Regional Trial Courts in the National Capital Judicial Region] and, in like manner, Circular Nos. 13 and 19, did not *per se* confer jurisdiction on the covered regional trial courts or its branches, such that non-observance thereof would nullify their judicial acts. The administrative order merely defines the limits of the administrative area within which a branch of the court may exercise its authority pursuant to the jurisdiction conferred by Batas Pambansa Blg. 129.<sup>21</sup>

The RTC need not be reminded that venue relates only to the place of trial or the geographical location in which an action or proceeding should be brought and **does not equate to the jurisdiction of the court**. It is intended to accord convenience to the parties, as it relates to the place of trial, and does not restrict their access to the courts.<sup>22</sup> Consequently, the RTC's *motu proprio* dismissal of Civil Case No. 2011-8338 on the ground of lack of jurisdiction is patently incorrect.

At most, the error committed by the petitioners in filing the case with the RTC of Sorsogon was that of improper venue. A.M. No. 09-6-8-SC or the Rules of Procedure for Environmental Cases (Rules) specifically states that a special civil action for continuing *mandamus* shall be filed with the “[RTC] exercising jurisdiction **over the territory where the actionable neglect or omission occurred** x x x.”<sup>23</sup> In this case, it appears that the alleged actionable neglect or omission occurred in the Municipality of Matnog and as such, the petition should have been filed in the RTC of Irosin.<sup>24</sup> But even then, it does not warrant the outright dismissal of the petition by the RTC as venue may be waived.<sup>25</sup> Moreover, the action filed by the petitioners is not criminal in nature where venue is an essential element of jurisdiction.<sup>26</sup> In *Gomez-Castillo v. Commission on Elections*,<sup>27</sup> the Court

<sup>20</sup> 317 Phil. 9 (1995).

<sup>21</sup> Id. at 22, citing *Malaloan v. Court of Appeals*, G.R. No. 104879, May 6, 1994, 232 SCRA 249, 261.

<sup>22</sup> *Mendiola v. Court of Appeals*, G.R. No. 159746, July 18, 2012, 677 SCRA 27, 50.

<sup>23</sup> Rules of Procedure for Environmental Cases, Rule 8, Section 2.

Rule 1, Section 1, meanwhile, states that the rules shall govern the procedure in civil, criminal and special civil actions before the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts involving enforcement or violations of environmental and other related laws, rules and regulations.

<sup>24</sup> Under A.O. No. 7, Series of 1983 (as amended, 2009), RTC-Irosin, Branch 55, covers the municipalities of Irosin, Matnog and Santa Magdalena. Branches 51 to 53 of RTC-Sorsogon, on the other hand, cover the city of Sorsogon and the municipalities of Casiguran, Castilla, Donsol, Juban and Pilar.

<sup>25</sup> *Rudolf Lietz Holdings, Inc. v. Registry of Deeds of Parañaque*, 398 Phil. 626, 632 (2000).

<sup>26</sup> *Union Bank of the Philippines v. People*, G.R. No. 192565, February 28, 2012, 667 SCRA 113, 122.

<sup>27</sup> G.R. No. 187231, June 22, 2010, 621 SCRA 499.

even expressed that what the RTC should have done under the circumstances was to transfer the case (an election protest) to the proper branch. Similarly, it would serve the higher interest of justice<sup>28</sup> if the Court orders the transfer of Civil Case No. 2011 8338 to the RTC of Irosin for proper and speedy resolution, with the RTC applying the Rules in its disposition of the case.

At this juncture, the Court affirms the continuing applicability of Admin. Circular No. 23-2008 constituting the different “green courts” in the country and setting the administrative guidelines in the raffle and disposition of environmental cases. While the designation and guidelines were made in 2008, the same should operate in conjunction with the Rules.

### **A.M. No. 09-6-8-SC: Rules of Procedure for Environmental Cases**

In its Resolution dated October 18, 2011, which resolved the petitioners’ motion for reconsideration of the order of dismissal, the RTC further ruled that the petition was dismissible on the following grounds: (1) there is no final court decree, order or decision yet that the public officials allegedly failed to act on; (2) the case was prematurely filed for failure to exhaust administrative remedies; and (3) there was failure to attach judicial affidavits and furnish a copy of the complaint to the government or appropriate agency.<sup>29</sup> The respondents, and even the Office of the Solicitor General, in behalf of the public respondents, all concur with the view of the RTC.

The concept of continuing *mandamus* was first introduced in *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*.<sup>30</sup> Now cast in stone under Rule 8 of the Rules, the writ of continuing *mandamus* enjoys a distinct procedure than that of ordinary civil actions for the enforcement/violation of environmental laws, which are covered by Part II (Civil Procedure). Similar to the procedure under Rule 65 of the Rules of Court for special civil actions for *certiorari*, prohibition and *mandamus*, Section 4, Rule 8 of the Rules requires that the petition filed should be sufficient in form and substance before a court may take further action; otherwise, the court may dismiss the petition outright. Courts must be cautioned, however, that the determination to give due course to the petition or dismiss it outright is an exercise of discretion that must be applied in a reasonable manner in consonance with the spirit of the law and always with the view in mind of seeing to it that justice is served.<sup>31</sup>

<sup>28</sup> 1987 CONSTITUTION, Article IV, Section 5; Internal Rules of the Supreme Court, as amended, Rule 4, Section 3; A.M. No. 10-4-20-SC (Revised), March 12, 2013.

<sup>29</sup> *Rollo*, pp. 43-44.

<sup>30</sup> G.R. Nos. 171947-48, December 18, 2008, 574 SCRA 661.

<sup>31</sup> *Manila International Airport Authority v. Olongapo Maintenance Services, Inc.*, 567 Phil. 255, 281-282 (2008).

Sufficiency in form and substance refers to the contents of the petition filed under Rule 8, Section 1:

When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

On matters of form, the petition must be verified and must contain supporting evidence as well as a sworn certification of non-forum shopping. It is also necessary that the petitioner must be one who is aggrieved by an act or omission of the government agency, instrumentality or its officer concerned. Sufficiency of substance, on the other hand, necessitates that the petition must contain substantive allegations specifically constituting an actionable neglect or omission and must establish, at the very least, a *prima facie* basis for the issuance of the writ, viz: (1) an agency or instrumentality of government or its officer unlawfully neglects the performance of an act or unlawfully excludes another from the use or enjoyment of a right; (2) the act to be performed by the government agency, instrumentality or its officer is specifically enjoined by law as a duty; (3) such duty results from an office, trust or station in connection with the enforcement or violation of an environmental law, rule or regulation or a right therein; and (4) there is no other plain, speedy and adequate remedy in the course of law.<sup>32</sup>

The writ of continuing *mandamus* is a special civil action that may be availed of “to compel the performance of an act specifically enjoined by law.”<sup>33</sup> **The petition should mainly involve an environmental and other related law, rule or regulation or a right therein.** The RTC’s mistaken notion on the need for a final judgment, decree or order is apparently based on the definition of the writ of continuing *mandamus* under Section 4, Rule

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<sup>32</sup> The petition must also specify that it concerns an environmental law, rule or regulation and must pray that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied.

<sup>33</sup> *Boracay Foundation, Inc. v. Province of Aklan*, G.R. No. 196870, June 26, 2012, 674 SCRA 555, 606.

1 of the Rules, to wit:

(c) Continuing mandamus is a writ issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts **decreed by final judgment** which shall remain effective until judgment is fully satisfied. (Emphasis ours)

The final court decree, order or decision erroneously alluded to by the RTC actually pertains to the judgment or decree that a court would eventually render in an environmental case for continuing *mandamus* and which judgment or decree shall subsequently become final.

Under the Rules, after the court has rendered a judgment in conformity with Rule 8, Section 7 and such judgment has become final, the issuing court still retains jurisdiction over the case to ensure that the government agency concerned is performing its tasks as mandated by law and to monitor the effective performance of said tasks. It is only upon full satisfaction of the final judgment, order or decision that a final return of the writ shall be made to the court and if the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket.<sup>34</sup> A writ of continuing *mandamus* is, in essence, a command of continuing compliance with a final judgment as it “permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court’s decision.”<sup>35</sup>

The Court, likewise, cannot sustain the argument that the petitioners should have first filed a case with the Panel of Arbitrators (Panel), which has jurisdiction over mining disputes under R.A. No. 7942.

Indeed, as pointed out by the respondents, the Panel has jurisdiction over mining disputes.<sup>36</sup> But the petition filed below does not involve a mining dispute. What was being protested are the alleged negative environmental impact of the small-scale mining operation being conducted by Antones Enterprises, Global Summit Mines Development Corporation and TR Ore in the Municipality of Matnog; the authority of the Governor of Sorsogon to issue mining permits in favor of these entities; and the perceived indifference of the DENR and local government officials over the issue. Resolution of these matters does not entail the technical knowledge

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<sup>34</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 8, Section 8.

<sup>35</sup> Supra note 33. (Underscoring ours)

<sup>36</sup> Section 77 of R.A. No. 7942 (Philippine Mining Act) provides that the Panel of Arbitrators shall have exclusive and original jurisdiction to hear and decide (a) disputes involving rights to mining areas; (b) disputes involving mineral agreements or permits; (c) disputes involving surface owners, occupants and claimholders/concessionaires; and (d) disputes pending before the Bureau and the Department at the date of the effectivity of R.A. No. 7942.



and expertise of the members of the Panel but requires an exercise of judicial function. Thus, in *Olympic Mines and Development Corp. v. Platinum Group Metals Corporation*,<sup>37</sup> the Court stated –

**Arbitration before the Panel of Arbitrators is proper only when there is a disagreement between the parties as to some provisions of the contract between them, which needs the interpretation and the application of that particular knowledge and expertise possessed by members of that Panel.** It is not proper when one of the parties repudiates the existence or validity of such contract or agreement on the ground of fraud or oppression as in this case. The validity of the contract cannot be subject of arbitration proceedings. Allegations of fraud and duress in the execution of a contract are matters within the jurisdiction of the ordinary courts of law. **These questions are legal in nature and require the application and interpretation of laws and jurisprudence which is necessarily a judicial function.**<sup>38</sup> (Emphasis supplied in the former and ours in the latter)

Consequently, resort to the Panel would be completely useless and unnecessary.

The Court also finds that the RTC erred in ruling that the petition is infirm for failure to attach judicial affidavits. As previously stated, Rule 8 requires that the petition should be verified, contain supporting evidence and must be accompanied by a sworn certification of non-forum shopping. There is nothing in Rule 8 that compels the inclusion of judicial affidavits, albeit not prohibited. It is only if the evidence of the petitioner would consist of testimony of witnesses that it would be the time that judicial affidavits (affidavits of witnesses in the question and answer form) must be attached to the petition/complaint.<sup>39</sup>

Finally, failure to furnish a copy of the petition to the respondents is not a fatal defect such that the case should be dismissed. The RTC could have just required the petitioners to furnish a copy of the petition to the respondents. It should be remembered that “courts are not enslaved by technicalities, and they have the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties’ right to an opportunity to be heard.”<sup>40</sup>

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<sup>37</sup> G.R. No. 178188, August 14, 2009, 596 SCRA 314.

<sup>38</sup> Id. at 331-332, citing *Gonzales v. Climax Mining Ltd.*, 492 Phil. 682, 696-697 (2005).

<sup>39</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 2, Section 3.

<sup>40</sup> *Tomas v. Santos*, G.R. No. 190448, July 26, 2010, 625 SCRA 645, 650-651.


**WHEREFORE**, the petition is **GRANTED**. The Order dated September 16, 2011 and Resolution dated October 18, 2011 issued by the Regional Trial Court of Sorsogon, Branch 53, dismissing Civil Case No. 2011-8338 are **NULLIFIED AND SET ASIDE**. The Executive Judge of the Regional Trial Court of Sorsogon is **DIRECTED** to transfer the case to the Regional Trial Court of Irosin, Branch 55, for further proceedings with dispatch. Petitioner Maricris D. Dolot is also **ORDERED** to furnish the respondents with a copy of the petition and its annexes within ten (10) days from receipt of this Decision and to submit its Compliance with the RTC of Irosin.

**SO ORDERED.**



**BIENVENIDO L. REYES**  
Associate Justice


**WE CONCUR:**



**MARIA LOURDES P. A. SERENO**  
Chief Justice



**ANTONIO T. CARPIO**  
Associate Justice

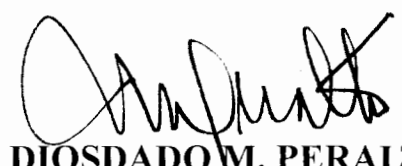


**PRESBITERO J. VELASCO, JR.**  
Associate Justice

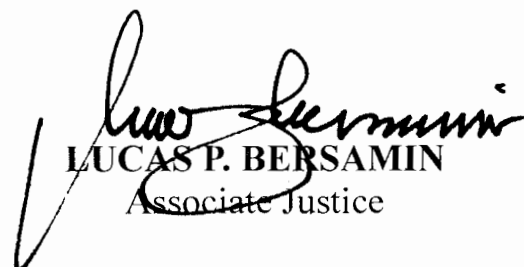


**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice


(On leave)  
**ARTURO D. BRION**  
Associate Justice

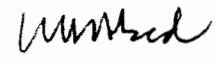


**DIOSDADO M. PERALTA**  
Associate Justice



**LUCAS P. BERSAMIN**  
Associate Justice

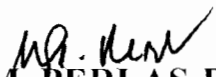
  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ROBERTO A. ABAD**  
Associate Justice

(On official leave)  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice


  
**JOSE CATRAL MENDOZA**  
Associate Justice

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

  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice