Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC OF THE PHILIPPINES, Petitioner,	**G.R. No. 174385**
- versus -	Present:
HON. RAMON S. CAGUIOA, Presiding Judge, Branch 74, Regional Trial Court, Third Judicial Region, Olongapo City, METATRANS TRADING INTERNATIONAL CORPORATION, and HUNDRED YOUNG SUBIC INTERNATIONAL, INC., Respondents.	CARPIO, *J.*, *Chairperson,* BRION, DEL CASTILLO, PEREZ, and PERLAS-BERNABE, *JJ.*
	Promulgated: FEB 20 2013

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DECISION

BRION, *J.*:

We resolve in this petition for *certiorari* and prohibition[1] (the present petition) the challenge to the August 11, 2005 and July 5, 2006 orders[2] of respondent Judge Ramon S. Caguioa, Regional Trial Court *(RTC)* of Olongapo City, Branch 74, in Civil Case No. 102-0-05. The August 11, 2005 order granted the motion to intervene filed by private respondents Metatrans Trading International Corporation and Hundred Young Subic International, Inc., while the July 5, 2006 order denied the motion for reconsideration and the motion to suspend the proceedings filed by the petitioner Republic of the Philippines (*Republic*).

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1 *Rollo*, pp. 2-28.
2 Id. at 35-36 and 37-38, respectively.

The Factual Antecedents

On March 14, 2005,[3] Indigo Distribution Corporation and thirteen other petitioners (collectively referred to as *lower court petitioners*) filed before the respondent judge a petition for declaratory relief with prayer for temporary restraining order *(TRO)* and preliminary mandatory injunction[4] against the Honorable Secretary of Finance, et al. The petition sought to nullify the implementation of Section 6 of Republic Act *(R.A.)* No. 9334, otherwise known as "AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 131, 141, 142, 143, 144, 145 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED," as unconstitutional. Section 6 of R.A. No. 9334, in part, reads:

> SEC. 6. Section 131 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:
>
> SEC. 131. *Payment of Excise Taxes on Imported Articles.* –
>
> (A) *Persons Liable.* – x x x.
>
> x x x x
>
> **The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines into the Philippines, even if destined for tax and duty-free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon. This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Special Economic and Freeport Zone, created under Republic Act No. 7227**; the Cagayan Special Economic Zone and Freeport, created under Republic Act No. 7922; and the Zamboanga City Special Economic Zone, created under Republic Act No. 7903, and such other freeports as may hereafter be established or created by law: *Provided, further,* That importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government-

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[3] Id. at 7 and 122.

[4] Copy of the petition for declaratory relief with prayer for temporary restraining order and preliminary mandatory injunction is attached as Annex "C" to the Petition; id. at 39-64. The other petitioners W STAR TRADING AND WAREHOUSING CORP., FREEDOM BRANDS PHILS., CORP., BRANDED WAREHOUSE, INC., ALTASIA INC., TAINAN TRADE (TAIWAN), INC., SUBIC PARK 'N SHOP, INC., TRADING GATEWAYS INTERNATIONAL PHILS., INC., DUTY FREE SUPERSTORE (DFS) INC., CHJIMES TRADING INC., PREMIER FREEPORT, INC., FUTURE TRADE SUBIC FREEPORT, INC., GRAND COMTRADE INTERNATIONAL, CORP., and FIRST PLATINUM INTERNATIONAL, INC.

> owned and operated duty-free shop, like the Duty-Free Philippines (DFP), shall be exempted from all applicable duties only[.] [emphasis ours; italics supplied]

The lower court petitioners are importers and traders duly licensed to operate inside the Subic Special Economic and Freeport Zone *(SSEFZ)*.

By way of background, Congress enacted, in 1992, R.A. No. 7227, otherwise known as "The BASES CONVERSION AND DEVELOPMENT ACT OF 1992," which provided, among others, for the creation of the SSEFZ, as well as the Subic Bay Metropolitan Authority *(SBMA)*. Pursuant to this law, the SBMA granted the lower court petitioners Certificates of Registration and Tax Exemption. The certificates allowed them to engage in the business of import and export of general merchandise (including alcohol and tobacco products) and uniformly granted them tax exemptions for these importations.

On January 1, 2005, Congress passed R.A. No. 9334. Based on Section 6 of R.A. No. 9334, the SBMA issued a Memorandum on February 7, 2005 directing its various departments to require importers in the SSEFZ to pay the applicable duties and taxes on their importations of tobacco and alcohol products before these importations are cleared and released from the freeport. The memorandum prompted the lower court petitioners to bring before the RTC their petition for declaratory relief (Civil Case No. 102-0-05). The petition included a prayer for the issuance of a writ of preliminary injunction and/or a TRO to enjoin the Republic (acting through the SBMA) from enforcing the challenged memorandum.

On May 4, 2005,[5] the respondent judge granted the lower court petitioners' application for preliminary injunction despite the Republic's opposition, and on May 11, 2005, he issued the preliminary injunction.

The Republic filed before this Court a petition for *certiorari* and prohibition – **docketed in this Court as G.R. No. 168584** – to annul the respondent judge's order and the writ issued pursuant to this order. The petition asked for the issuance of a TRO and/or a writ of preliminary injunction. By motion dated July 21, 2005 filed before the lower court, the Republic asked the respondent judge to suspend the proceedings pending the resolution of G.R. No. 168584.

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[5] Id. at 7 and 122.

On August 5, 2005, the private respondents (in the present petition now before us) filed before the respondent judge motions for leave to intervene and to admit complaints-in-intervention. They also asked in these motions that the respondent judge extend to them the effects and benefits of his May 4, 2005 order, in the lower court petitioners' favor, and the subsequently issued May 11, 2005 writ of preliminary mandatory injunction.

Without acting on the Republic's motion to suspend the proceedings, the respondent judge granted on August 11, 2005 the private respondents' motions and complaints-in-intervention. The respondent judge found the private respondents to be similarly situated as the lower court petitioners; they stood, too, to be adversely affected by the implementation of R.A. No. 9334.

The Republic moved to reconsider[6] the respondent judge's August 11, 2005 order, arguing that it had been denied due process because it never received copies of the private respondents' motions and complaints-in-intervention.

On July 5, 2006, the respondent judge denied the Republic's motion for reconsideration and the previously filed motion to suspend the proceedings. The respondent judge held that all of the parties in the case had been duly notified *per* the records. To justify the denial of the motion to suspend the proceedings, the respondent judge pointed to the absence of any restraining order in G.R. No. 168584. The Republic responded to the respondent judge's actions by filing the present petition.

The Petition

The present petition charges that the respondent judge acted with manifest partiality and with grave abuse of discretion when he issued his August 11, 2005 and July 5, 2006 orders. In particular, the Republic contends that the respondent judge violated its right to due process when he peremptorily allowed the private respondents' motions and complaints-in-intervention and proceeded with their hearing *ex parte* despite the absence of any prior notice to it. The Republic maintains that it never received any notice of hearing, nor any copy of the questioned motions and complaints-in-intervention.[7]

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6 Id. at 65-71.

7 Id. at 14-19 and 131-134.

Further, the Republic posits that the respondent judge abused his discretion when he extended to the private respondents the benefits of the preliminary injunction earlier issued to the lower court petitioners under the same ₱1,000,000.00 bond the lower court petitioners posted. The Republic labels this action as a violation of Section 4, Rule 58 of the Rules of Court, claiming at the same time that the bond is manifestly disproportionate to the resulting damage the Republic stood to incur considering the number of the original and the additional lower court petitioners.[8]

Finally, in support of its prayer for the issuance of a TRO and/or a writ of preliminary injunction, the Republic stresses that the assailed orders continue to cause it multi-million tax losses. It justifies its prayer for the respondent judge's inhibition by pointing to the latter's act of continuously allowing parties to intervene despite the absence of notice and to the inclusion of non-parties to the original case.

During the pendency of the present petition, the Court *en banc* partially granted the Republic's petition in G.R. No. 168584. By a Decision[9] dated October 15, 2007, this Court set aside and nullified the respondent judge's order of May 4, 2005 and the subsequent May 11, 2005 writ of preliminary injunction. On January 15, 2008, the Court denied with finality the lower court petitioners' motion for reconsideration.[10]

The Respondent's Position

In their defense, the private respondents point to the procedural defects in the petition, specifically: *first*, the petition was filed out of time, arguing that the Republic only had 53 remaining days to file the petition from notice of the denial of its motion for reconsideration, maintaining that the 60-day period within which to file the petition is counted from the notice of the denial of the August 11, 2005 order; s*econd*, the petition did not comply with the rules on proof of filing and service; *third*, the Republic failed to properly serve their counsel of record a copy of the petition; and *fourth*, the Republic did not observe the hierarchy of courts in filing the instant petition.[11]

The private respondents further contend that the respondent judge correctly allowed their complaints-in-intervention as the matter of intervention is addressed to the courts' discretion; as noted in the assailed

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8 Id. at 20-24 and 135-139.
9 Id. at 150-174.
10 Id. at 175.
11 Id. at 90-91, 94-96 and 188-190.

orders, the records show that the notice of hearing was addressed to all of the parties in the original case.[12]

Finally, on the Republic's prayer for prohibition, the private respondents maintain that prohibition is improper since this Court, in G.R. No. 168584, denied the Republic's prayer for a writ of prohibition, noting that the respondent judge had been suspended, pending resolution of this petition.[13]

The Court's Ruling

We resolve to PARTLY GRANT the petition.

Relaxation of procedural rules for compelling reasons

We disagree with the private respondents' procedural objections.

First, we find that the present petition was filed within the reglementary period. Contrary to the private respondents' position, the 60-day period within which to file the petition for *certiorari* is counted from the Republic's receipt of the July 5, 2006 order denying the latter's motion for reconsideration. Section 4, Rule 65 of the Rules of Court is clear on this point – "**In case a motion for reconsideration** or new trial **is timely filed**, whether such motion is required or not, **the sixty (60) day period shall be counted from notice of the denial of said motion**."[14] We find too that the present petition complied with the rules on proof of filing and service of the petition. Attached to the petition – in compliance with Sections 12 and 13, Rule 13 of the Rules of Court – are the registry receipts and the affidavit of the person who filed and served the petition by registered mail.

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12 Id. at 92-93 and 184-187.

13 Id. at 190-191.

14 Section 4, Rule 65 of the Rules of Court provides in full:

"SEC. 4. *When and where petition filed.* — The **petition may be filed not later than sixty (60) days** from notice of the judgment, order or resolution. **In case a motion for reconsideration or new trial is timely filed**, whether such motion is required or not, **the sixty (60) day period shall be counted from notice of the denial of said motion**.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days." (emphases ours; italics supplied)

Second, while the principle of hierarchy of courts does indeed require that recourses should be made to the lower courts before they are made to the higher courts,[15] this principle is not an absolute rule and admits of exceptions under well-defined circumstances. In several cases, we have allowed direct invocation of this Court's original jurisdiction to issue writs of *certiorari* on the ground of special and important reasons clearly stated in the petition;[16] when dictated by public welfare and the advancement of public policy; when demanded by the broader interest of justice; when the challenged orders were patent nullities;[17] or when analogous exceptional and compelling circumstances called for and justified our immediate and direct handling of the case.[18]

The Republic claims that the respondent judge violated and continues to violate its right to due process by allowing the private respondents and several others to intervene in the case *sans* notice to the Republic; by extending to them the benefit of the original injunction without the requisite injunction bond applicable to them as separate injunction applicants; and by continuing to suspend the Republic's right to collect excise taxes from the private respondents and from the lower court petitioners, thus adversely affecting the government's revenues. To our mind, the demonstrated extent of the respondent judge's actions and their effects constitute special and compelling circumstances calling for our direct and immediate attention.

Lastly, under our rules of procedure,[19] service of the petition on a party, when that party is represented by a counsel of record, is a patent nullity and is not binding upon the party wrongfully served.[20] This rule, however, is a procedural standard that may admit of exceptions when faced with compelling reasons of substantive justice manifest in the petition and in the surrounding circumstances of the case.[21] Procedural rules can bow to substantive considerations through a liberal construction aimed at promoting

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[15] *United Claimants Association of NEA (UNICAN) v. National Electrification Administration (NEA)*, G.R. No. 187107, January 31, 2012, 664 SCRA 483, 489-490, citing *Mendoza v. Villas*, G.R. No. 187256, February 23, 2011, 644 SCRA 347.

[16] *United Claimants Association of NEA (UNICAN) v. National Electrification Administration (NEA), supra*, at 490. See also *Philippine Amusement and Gaming Corporation (PAGCOR) v. Fontana Development Corporation*, G.R. No. 187972, June 29, 2010, 622 SCRA 461, 476.

[17] *National Association of Electricity Consumers for Reforms, Inc. (NASECORE) v. Energy Regulatory Commission (ERC)*, G.R. No. 190795, July 6, 2011, 653 SCRA 642, 656.

[18] *PCGG Chairman Magdangal B. Elma, et al. v. Reiner Jacobi, et al.*, G.R. No. 155996, June 27, 2012.

[19] RULES OF COURT, Rule 13, Section 2.

[20] *Garrucho v. Court of Appeals*, 489 Phil. 150, 156 (2005), citing *Tam Wing Tak v. Makasiar*, 350 SCRA 475 (2001); and *De Leon v. Court of Appeals*, 432 Phil. 775 (2002). See also *Republic v. Luriz*, G.R. No. 158992, January 26, 2007, 513 SCRA 140, 150; and *De Leon v. Court of Appeals, supra*, at 788.

[21] *Osmeña v. Commission on Audit*, G.R. No. 188818, May 31, 2011, 649 SCRA 654, 660; and *Asia United Bank v. Goodland Company, Inc.*, G.R. No. 188051, November 22, 2010, 635 SCRA 637, 643.

their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[22]

The Republic has consistently and repeatedly maintained that it never received a copy of the motions and complaints-in-intervention, as evidenced by the certification of the Docket Division of the Office of the Solicitor General (*OSG*); it learned of the private respondents' presence in this case only after it received copies of the assailed orders, and it even had to inquire from the lower court for the private respondents' addresses. Although their counsels did not formally receive any copy of the petition, the private respondents themselves admitted that they received their copy of the present petition. The records show that the Republic subsequently complied with the rules on service when, after the private respondents' comment, the Republic served copies of its reply and memorandum to the respondents' counsel of record.

Under these circumstances, we are satisfied with the Republic's explanation on why it failed to initially comply with the rule on service of the present petition; its subsequent compliance with the rule after being informed of the presence of counsels of record sufficiently warrants the rule's relaxed application.[23] The lack of a proper service – unlike the situation when the Republic was simply confronted with already-admitted complaints-in-intervention – did not result in any prejudice; the private respondents themselves were actually served with, and duly received, their copies of the present petition, allowing them to comment and to be heard on the petition.

The Republic was denied due process; the respondent judge issued the assailed orders with grave abuse of discretion

Due process of law is a constitutionally guaranteed right reserved to every litigant. Even the Republic as a litigant is entitled to this constitutional right, in the same manner and to the same extent that this right is guaranteed to private litigants. The essence of due process is the opportunity to be heard, logically preconditioned on prior notice, before judgment is rendered.[24]

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[22] RULES OF COURT, Rule 1, Section 6.

[23] See *Santos v. Litton Mills Incorporated*, G.R. No. 170646, June 22, 2011, 652 SCRA 510, 522; and *Osmeña v. Commission on Audit, supra* note 21, at 660.

[24] *Crispino Pangilinan v. Jocelyn N. Balatbat, etc.*, G.R. No. 170787, September 12, 2012. See also *Anama v. Court of Appeals*, G.R. No. 187021, January 25, 2012, 664 SCRA 293, 306.

A motion for intervention, like any other motion, has to comply with the mandatory requirements of notice and hearing, as well as proof of its service,[25] save only for those that the courts can act upon without prejudice to the rights of the other parties.[26] A motion which fails to comply with these requirements is a worthless piece of paper that cannot and should not be acted upon.[27] The reason for this is plain: a movant asks the court to take a specific course of action, often contrary to the interest of the adverse party and which the latter must then be given the right and opportunity to oppose.[28] The notice of hearing to the adverse party thus directly services the required due process as it affords the adverse party the opportunity to properly state his agreement or opposition to the action that the movant asks for.[29] Consequently, our procedural rules provide that a motion that does not afford the adverse party this kind of opportunity should simply be disregarded.[30]

The notice requirement is even more mandatory when the movant asks for the issuance of a preliminary injunction and/or a TRO. Under Section 5, Rule 58 of the Rules of Court, no preliminary injunction shall be granted without a hearing and without prior notice to the party sought to be enjoined. The prior notice under this requirement is as important as the hearing, as no hearing can meaningfully take place, with both parties present or represented, unless a prior notice of the hearing is given.

Additionally, in the same way that an original complaint must be served on the defendant, a copy of the complaint-in-intervention must be served on the adverse party with the requisite proof of service duly filed

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[25] *Anama v. Court of Appeals, supra*, at 306. See also *Preysler, Jr. v. Manila Southcoast Development Corporation*, G.R. No. 171872, June 28, 2010, 621 SCRA 636, 643.

[26] Rule 15 of the Rules of Court, which governs motions, provides:

RULE 15. MOTIONS.

x x x x

SEC. 4. *Hearing of motion.* — Except for motions which the court may act upon without prejudicing the rights of the adverse party, **every written motion shall be set for hearing by the applicant**.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SEC. 5. *Notice of hearing.* — The **notice of hearing shall be addressed to all parties concerned**, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

SEC. 6. *Proof of service necessary.* — **No written motion** set for hearing **shall be acted upon by the court without proof of service** thereof. [emphases ours; italics supplied]

[27] *Anama v. Court of Appeals, supra* note 24, at 306; and *De la Peña v. De la Peña*, 327 Phil. 936, 940 (1996). See also *Bautista v. Causapin, Jr.*, A.M. No. RTJ-07-2044, June 22, 2011, 652 SCRA 442, 459; and *State Prosecutor Formaran III v. Judge Trabajo-Daray*, 485 Phil. 99, 111.

[28] *Bautista v. Causapin, Jr., supra*, at 459-460.

[29] Ibid.

[30] Ibid.

prior to any valid court action. Absent these or any reason duly explained and accepted excusing strict compliance, the court is without authority to act on such complaint; any action taken without the required service contravenes the law and the rules, and violates the adverse party's basic and constitutional right to due process.

In the present case, records show that the OSG had never received – contrary to the private respondents' claim – a copy of the motions and complaints-in-intervention.[31] The Republic duly and fully manifested the irregularity before the respondent judge.[32] Thus, the mere statement in the assailed orders that the parties were duly notified is insufficient on the face of the appropriate manifestation made and the supporting proof that the Republic submitted. In these lights, the motions and complaints-in-intervention cannot but be mere scraps of paper that the respondent judge had no reason to consider; in admitting them despite the absence of prior notice, the respondent judge denied the Republic of its right to due process.

While we may agree with the private respondents' claim that the matter of intervention is addressed to the sound discretion of the court,[33] what should not be forgotten is the requirement that the exercise of discretion must in the first place be "sound." In other words, the basic precepts of fair play and the protection of all interests involved must always be considered in the exercise of discretion. Under the circumstances of the present case, these considerations demand that the original parties to the action, which include the Republic, must have been properly informed to give them a chance to protect their interests. These interests include, among others, the protection of the Republic's revenue-generating authority that should have been insulated against damage through the filing of a proper bond. Thus, even from this narrow view that does not yet consider the element of fair play, the private respondents' case must fail; judicial discretion cannot override a party litigant's right to due process.

All told, the respondent judge acted with grave abuse of discretion warranting the issuance of the corrective writ of *certiorari*. Grave abuse of discretion arises when a lower court or tribunal violates the Constitution or grossly disregards the law or existing jurisprudence.[34] The term refers to such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction, as when the act amounts to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in

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31 *Rollo*, p. 72.

32 Id. at 65-71.

33 *Office of the Ombudsman v. Sison*, G.R. No. 185954, February 16, 2010, 612 SCRA 702, 712; and *Foster-Gallego v. Spouses Galang*, 479 Phil. 148, 164 (2004). See Rules of Court, Rule 19, Section 1.

34 *Fernandez v. COMELEC*, 535 Phil. 122, 126 (2006).

contemplation of law.[35] The respondent judge so acted so that the orders he issued should be declared void and of no effect.

Petition for prohibition and prayer for inhibition are denied for having been mooted by subsequent events

On November 9, 2006, the Republic filed an administrative case against the respondent judge for gross ignorance of the law, manifest partiality and conduct prejudicial to the best interest of the service. The case, docketed as A.M. No. RTJ-07-2063, is **likewise related to Civil Case No. 102-0-05 that underlie the present petition**. By a decision dated June 26, 2009, and while this case was still pending, this Court found the respondent judge guilty of gross ignorance of the law and conduct prejudicial to the best interest of the service. **The Court accordingly dismissed the respondent judge from the service.**

In light of these supervening events, the Court sees no reason to resolve the other matters raised in this petition for being moot.

WHEREFORE, under these premises, we **PARTIALLY GRANT** the petition. We **GRANT** the writ of *certiorari* and accordingly **SET ASIDE** the orders dated August 11, 2005 and July 5, 2006 of respondent Judge Ramon S. Caguioa in Civil Case No. 102-0-05 for being **NULL** and **VOID**. We **DISMISS** the prayer for writ of prohibition on the ground of mootness. Costs against Metatrans Trading International Corporation and Hundred Young Subic International, Inc.

SO ORDERED.

ARTURO D. BRION
Associate Justice

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[35] *Marquez v. Sandiganbayan 5th Division,* G.R. Nos. 187912-14, January 31, 2011, 641 SCRA 175, 181; *Land Bank of the Philippines v. Pagayatan,* G.R. No. 177190, February 23, 2011, 644 SCRA 133, 148; and *Deutsche Bank AG v. Court of Appeals,* G.R. No. 193065, February 27, 2012, 667 SCRA 82, 100.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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.

ANTONIO T. CARPIO
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.

MARIA LOURDES P. A. SERENO
Chief Justice