Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RAFAEL L. COSCOLLUELA,
Petitioner,

- versus -

SANDIGANBAYAN (FIRST DIVISION) and PEOPLE OF THE PHILIPPINES,
Respondents.

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G.R. No. 191411

EDWIN N. NACIONALES, ERNESTO P. MALVAS, and JOSE MA. G. AMUGOD,
Petitioners,

- versus -

SANDIGANBAYAN (FIRST DIVISION) and PEOPLE OF THE PHILIPPINES, represented by the OFFICE OF THE SPECIAL PROSECUTOR, OFFICE OF THE OMBUDSMAN,
Respondents.

G.R. No. 191871

Present:
CARPIO, *J.*, Chairperson,
DEL CASTILLO,
PEREZ,
MENDOZA,* and
PERLAS-BERNABE, *JJ.*

Promulgated:

JUL 15 2013

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* Designated Acting Member per Special Order No. 1484 dated July 9, 2013.

D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in these consolidated Petitions for *Certiorari*[1] are the October 6, 2009[2] and February 10, 2010[3] Resolutions of public respondent First Division of Sandiganbayan (SB), denying the Motion to Quash[4] dated July 8, 2009 filed by petitioner Rafael L. Coscolluela (Coscolluela). The said motion was adopted by petitioners Edwin N. Nacionales (Nacionales), Dr. Ernesto P. Malvas (Malvas), and Jose Ma. G. Amugod (Amugod), praying for the dismissal of Crim. Case No. SB-09-CRM-0154 for violation of their right to speedy disposition of cases.

The Facts

Coscolluela served as governor of the Province of Negros Occidental (Province) for three (3) full terms which ended on June 30, 2001. During his tenure, Nacionales served as his Special Projects Division Head, Amugod as Nacionales' subordinate, and Malvas as Provincial Health Officer.[5]

On November 9, 2001, the Office of the Ombudsman for the Visayas (Office of the Ombudsman) received a letter-complaint[6] dated November 7, 2001 from People's Graftwatch, requesting for assistance to investigate the anomalous purchase of medical and agricultural equipment for the Province in the amount of ₱20,000,000.00 which allegedly happened around a month before Coscolluela stepped down from office.

Acting on the letter-complaint, the Case Building Team of the Office of the Ombudsman conducted its investigation, resulting in the issuance of a Final Evaluation Report[7] dated April 16, 2002 which upgraded the complaint into a criminal case against petitioners.[8] Consequently, petitioners filed their respective counter-affidavits.[9]

On March 27, 2003, the assigned Graft Investigation Officer Butch E. Cañares (Cañares) prepared a Resolution (March 27, 2003 Resolution), finding probable cause against petitioners for violation of Section 3(e) of Republic Act No. (RA) 3019, otherwise known as the "Anti-Graft and

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1 *Rollo* (G.R. No. 191411), pp. 3-27; *rollo* (G.R. No. 191871), pp. 4-22.
2 *Rollo* (G.R. No. 191411), pp. 48-51; *rollo* (G.R. No. 191871), pp. 26-29. Penned by Associate Justice Rodolfo A. Ponferrada, with Associate Justices Norberto Y. Geraldez and Alexander G. Gesmundo, concurring.
3 *Rollo* (G.R. No. 191411), pp. 52-54; *rollo* (G.R. No. 191871), pp. 32-34.
4 *Rollo* (G.R. No. 191871), pp. 41-50.
5 *Rollo* (G.R. No. 191411), p. 183.
6 *Rollo* (G.R. No. 191871), pp. 51-53.
7 *Rollo* (G.R. No. 191411), pp. 112-115; *rollo* (G.R. No. 191871), pp. 132-135.
8 *Rollo* (G.R. No. 191411), p. 114.
9 *Rollo* (G.R. No. 191871), p. 57. Coscolluela filed his counter-affidavit on November 13, 2002.

Corrupt Practices Act," and recommended the filing of the corresponding information. On even date, the Information[10] was prepared and signed by Cañares and submitted to Deputy Ombudsman for the Visayas Primo C. Miro (Miro) for recommendation. Miro recommended the approval of the Information on June 5, 2003. However, the final approval of Acting Ombudsman Orlando C. Casimiro (Casimiro), came only on May 21, 2009, and on June 19, 2009, the Information was filed before the SB.

Petitioners alleged that they learned about the March 27, 2003 Resolution and Information only when they received a copy of the latter shortly after its filing with the SB.[11]

On July 9, 2009, Coscolluela filed a Motion to Quash,[12] arguing, among others, that his constitutional right to speedy disposition of cases was violated as the criminal charges against him were resolved only after almost eight (8) years since the complaint was instituted. Nacionales, Malvas, and Amugod later adopted Coscolluela's motion.

In reply, the respondents filed their Opposition to Motion to Quash[13] dated August 7, 2009, explaining that although the Information was originally dated March 27, 2003, it still had to go through careful review and revision before its final approval. It also pointed out that petitioners never raised any objections regarding the purported delay in the proceedings during the interim.[14]

The Ruling of the Sandiganbayan

In a Resolution[15] dated October 6, 2009, the SB denied petitioners' Motion to Quash for lack of merit. It held that the preliminary investigation against petitioners was actually resolved by Cañares on March 27, 2003, one (1) year and four (4) months from the date the complaint was filed, or in November 9, 2001. Complying with internal procedure, Cañares then prepared the March 27, 2003 Resolution and Information for the recommendation of the Miro and eventually, the final approval of the Casimiro. As these issuances had to undergo careful review and revision through the various levels of the said office, the period of delay – *i.e.*, from March 27, 2003 to May 21, 2009, or roughly over six (6) years – cannot be deemed as inordinate[16] and as such, petitioners' constitutional right to speedy disposition of cases was not violated.[17]

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10 *Rollo* (G.R. No. 191411), pp. 43-47. See Information dated March 27, 2003.
11 Id. at 186.
12 *Rollo* (G.R. No. 191871), pp. 41-50.
13 Id. at 54-62.
14 Id. at 59-60.
15 *Rollo* (G.R. No. 191411), pp. 48-51; *rollo* (G.R. No. 191871), pp. 26-29.
16 *Rollo* (G.R. No. 191411), p. 50; *rollo* (G.R. No. 191871), p. 28.
17 *Rollo* (G.R. No. 191411), p. 50; *rollo* (G.R. No. 191871), p. 28.

Aggrieved, petitioners filed their respective Motions for Reconsideration[18] dated November 9, 2009 and November 6, 2009, similarly arguing that the SB erred in making a distinction between two time periods, namely: (*a*) from the filing of the complaint up to the time Cañares prepared the resolution finding probable cause against petitioners; and (*b*) from the submission of the said resolution to the Acting Ombudsman for review and approval up to the filing of the Information with the SB. In this regard, petitioners averred that the aforementioned periods should not be compartmentalized and thus, treated as a single period. Accordingly, the delay of eight (8) years of the instant case should be deemed prejudicial to their right to speedy disposition of cases.[19]

The SB, however, denied the foregoing motions in its Resolution[20] dated February 10, 2010 for lack of merit.

Hence, the instant petitions.

The Issue Before the Court

The sole issue raised for the Court's resolution is whether the SB gravely abused its discretion in finding that petitioners' right to speedy disposition of cases was not violated.

The Court's Ruling

The petitions are meritorious.

A person's right to the speedy disposition of his case is guaranteed under Section 16, Article III of the 1987 Philippine Constitution (Constitution) which provides:

> SEC. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

This constitutional right is not limited to the accused in criminal proceedings but extends to all parties in all cases, be it civil or administrative in nature, as well as all proceedings, either judicial or quasi-judicial. In this

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18 *Rollo* (G.R. No. 191411), pp. 31-42 for Coscolluela; *rollo* (G.R. No. 191871), p. 36-40 for Nacionales, Malvas, and Amugod.

19 *Rollo* (G.R. No. 191411), p. 39; *rollo* (G.R. No. 191871), p. 38.

20 *Rollo* (G.R. No. 191411), pp. 52-54; *rollo* (G.R. No. 191871), pp. 32-34.

accord, any party to a case may demand expeditious action to all officials who are tasked with the administration of justice.[21]

It must be noted, however, that the right to speedy disposition of cases should be understood to be a relative or flexible concept such that a mere mathematical reckoning of the time involved would not be sufficient.[22] Jurisprudence dictates that the right is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured; or even without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried.[23]

Hence, in the determination of whether the defendant has been denied his right to a speedy disposition of a case, the following factors may be considered and balanced: (1) the length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.[24]

Examining the incidents in the present case, the Court holds that petitioners' right to a speedy disposition of their criminal case had been violated.

First, it is observed that the preliminary investigation proceedings took a protracted amount of time to complete.

In this relation, the Court does not lend credence to the SB's position that the conduct of preliminary investigation was terminated as early as March 27, 2003, or the time when Cañares prepared the Resolution recommending the filing of the Information. This is belied by Section 4, Rule II of the Administrative Order No. 07 dated April 10, 1990, otherwise known as the "Rules of Procedure of the Office of the Ombudsman," which provides:

> SEC. 4. Procedure – The preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court, subject to the following provisions:
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> x x x x
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> **No information may be filed and no complaint may be dismissed without the written authority or approval of the**

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21 *Roquero v. Chancellor of UP-Manila*, G.R. No. 181851, March 9, 2010, 614 SCRA 723, 732. (Citations omitted)

22 *Enriquez v. Office of the Ombudsman*, G.R. Nos. 174902-06, February 15, 2008, 545 SCRA 618, 626.

23 *Roquero v. Chancellor of UP*-Manila, supra note 21.

24 Id. at 733.

> **Ombudsman in cases falling within the jurisdiction of the Sandiganbayan**, or of the proper Deputy Ombudsman in all other cases. (Emphasis and underscoring supplied)

The above-cited provision readily reveals that there is no complete resolution of a case under preliminary investigation until the Ombudsman approves the investigating officer's recommendation to either file an Information with the SB or to dismiss the complaint. Therefore, in the case at bar, the preliminary investigation proceedings against the petitioners were not terminated upon Cañares' preparation of the March 27, 2003 Resolution and Information but rather, only at the time Casimiro finally approved the same for filing with the SB. In this regard, the proceedings were terminated only on May 21, 2009, or almost eight (8) years after the filing of the complaint.

***Second*,** the above-discussed delay in the Ombudsman's resolution of the case largely remains unjustified.

To this end, the Court equally denies the SB's ratiocination that the delay in proceedings could be excused by the fact that the case had to undergo careful review and revision through the different levels in the Office of the Ombudsman before it is finally approved, in addition to the steady stream of cases which it had to resolve.

Verily, the Office of the Ombudsman was created under the mantle of the Constitution, mandated to be the "protector of the people" and as such, required to "act promptly on complaints filed in any form or manner against officers and employees of the Government, or of any subdivision, agency or instrumentality thereof, in order to promote efficient service."[25] This great responsibility cannot be simply brushed aside by ineptitude. Precisely, the Office of the Ombudsman has the inherent duty not only to carefully go through the particulars of case but also to resolve the same within the proper length of time. Its dutiful performance should not only be gauged by the quality of the assessment but also by the reasonable promptness of its dispensation. Thus, barring any extraordinary complication, such as the degree of difficulty of the questions involved in the case or any event external thereto that effectively stymied its normal work activity – any of which have not been adequately proven by the prosecution in the case at bar – there appears to be no justifiable basis as to why the Office of the Ombudsman could not have earlier resolved the preliminary investigation proceedings against the petitioners.

***Third*,** the Court deems that petitioners cannot be faulted for their alleged failure to assert their right to speedy disposition of cases.

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[25] *Enriquez v. Office of the Ombudsman*, supra note 22, at 627-630.

Records show that they could not have urged the speedy resolution of their case because they were unaware that the investigation against them was still on-going. They were only informed of the March 27, 2003 Resolution and Information against them only after the lapse of six (6) long years, or when they received a copy of the latter after its filing with the SB on June 19, 2009.[26] In this regard, they could have reasonably assumed that the proceedings against them have already been terminated. This serves as a plausible reason as to why petitioners never followed-up on the case altogether. Instructive on this point is the Court's observation in *Duterte v. Sandiganbayan*,[27] to wit:

> **Petitioners in this case, however, could not have urged the speedy resolution of their case because they were completely unaware that the investigation against them was still on-going**. Peculiar to this case, we reiterate, is the fact that petitioners were merely asked to comment, and not file counter-affidavits which is the proper procedure to follow in a preliminary investigation. **After giving their explanation and after four long years of being in the dark, petitioners, naturally, had reason to assume that the charges against them had already been dismissed.**
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> On the other hand, the Office of the Ombudsman failed to present any plausible, special or even novel reason which could justify the four-year delay in terminating its investigation. Its excuse for the delay — the many layers of review that the case had to undergo and the meticulous scrutiny it had to entail — has lost its novelty and is no longer appealing, as was the invocation in the Tatad case. The incident before us does not involve complicated factual and legal issues, specially (*sic*) in view of the fact that the subject computerization contract had been mutually cancelled by the parties thereto even before the Anti-Graft League filed its complaint. (Emphasis and underscoring supplied)

Being the respondents in the preliminary investigation proceedings, it was not the petitioners' duty to follow up on the prosecution of their case. Conversely, it was the Office of the Ombudsman's responsibility to expedite the same within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it. As pronounced in the case of *Barker v. Wingo*:[28]

> A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process.

Fourth, the Court finally recognizes the prejudice caused to the petitioners by the lengthy delay in the proceedings against them.

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26 *Rollo* (G.R. No. 191411), p. 186.
27 352 Phil. 557, 582-583 (1998).
28 407 U.S. 514 (1972).

Lest it be misunderstood, the right to speedy disposition of cases is not merely hinged towards the objective of spurring dispatch in the administration of justice but also to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time.[29] Akin to the right to speedy trial, its "salutary objective" is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose.[30] This looming unrest as well as the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual. In the context of the right to a speedy trial, the Court in *Corpuz v. Sandiganbayan*[31] (*Corpuz*) illumined:

> A balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an *ad hoc* basis.
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> x x x Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. **Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.**
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> Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden. The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals. As held in *Williams v. United States*, for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice.
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> Closely related to the length of delay is the reason or justification of the State for such delay. Different weights should be assigned to different reasons or justifications invoked by the State. For instance, a deliberate attempt to delay the trial in order to hamper or prejudice the defense should be weighted heavily against the State. Also, it is improper for the prosecutor to intentionally delay to gain some tactical advantage over the defendant or to harass or prejudice him. On the other hand, the

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29 *Corpuz v. Sandiganbayan*, 484 Phil. 899, 917 (2004). (Citations omitted)
30 *Mari v. Gonzales*, G.R. No. 187728, September 12, 2011, 657 SCRA 414, 423.
31 *Corpuz v. Sandiganbayan*, supra note 29 at 917-919.

> heavy case load of the prosecution or a missing witness should be weighted less heavily against the State. x x x (Emphasis and underscoring supplied; citations omitted)

As the right to a speedy disposition of cases encompasses the broader purview of the entire proceedings of which trial proper is but a stage, the above-discussed effects in *Corpuz* should equally apply to the case at bar. As held in *Dansal v. Fernandez, Sr.*:[32]

> Sec. 16, Article III of the 1987 Constitution, reads:
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> > "Sec. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."
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> Initially embodied in Section 16, Article IV of the 1973 Constitution, the aforesaid constitutional provision is one of three provisions mandating speedier dispensation of justice. **It guarantees the right of all persons to "a speedy disposition of their case"; includes within its contemplation the periods before, during and after trial, and affords broader protection than Section 14(2), which guarantees just the right to a speedy trial.** It is more embracing than the protection under Article VII, Section 15, which covers only the period after the submission of the case. The present constitutional provision applies to civil, criminal and administrative cases. (Emphasis and underscoring supplied; citations omitted)

Thus, in view of the unjustified length of time miring the Office of the Ombudsman's resolution of the case as well as the concomitant prejudice that the delay in this case has caused, it is undeniable that petitioners' constitutional right to due process and speedy disposition of cases had been violated. As the institutional vanguard against corruption and bureaucracy, the Office of the Ombudsman should create a system of accountability in order to ensure that cases before it are resolved with reasonable dispatch and to equally expose those who are responsible for its delays, as it ought to determine in this case.

Corollarily, for the SB's patent and utter disregard of the existing laws and jurisprudence surrounding the matter, the Court finds that it gravely abused its discretion when it denied the quashal of the Information. Perforce, the assailed resolutions must be set aside and the criminal case against petitioners be dismissed.

While the foregoing pronouncement should, as matter of course, result in the acquittal of the petitioners, it does not necessarily follow that petitioners are entirely exculpated from any civil liability, assuming that the same is proven in a subsequent case which the Province may opt to pursue.

Section 2, Rule 111 of the Rules of Court provides that an acquittal in a criminal case does not bar the private offended party from pursuing a

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[32] 383 Phil. 897, 905 (2000). (Citations omitted)

subsequent civil case based on the delict, ***unless the judgment of acquittal explicitly declares that the act or omission from which the civil liability may arise did not exist***.[33] As explained in the case of *Abejuela v. People,*[34] citing *Banal v. Tadeo, Jr.*:[35]

> The Rules provide: "**The extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In other cases, the person entitled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damage suffered**."
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> x x x x
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> In Banal vs. Tadeo, Jr., we declared:
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> > "While an act or omission is felonious because it is punishable by law, it gives rise to civil liability not so much because it is a crime but because it caused damage to another. Viewing things pragmatically, **we can readily see that what gives rise to the civil liability is really the obligation and moral duty of everyone to repair or make whole the damage caused to another by reason of his own act or omission, done intentionally or negligently, whether or not the same be punishable by law**."(Emphasis and underscoring supplied)

Based on the violation of petitioners' right to speedy disposition of cases as herein discussed, the present case stands to be dismissed even before either the prosecution or the defense has been given the chance to present any evidence. Thus, the Court is unable to make a definite pronouncement as to whether petitioners indeed committed the acts or omissions from which any civil liability on their part might arise as prescribed under Section 2, Rule 120 of the Rules of Court.[36] Consequently, absent this pronouncement, the Province is not precluded from instituting a subsequent civil case based on the delict if only to recover the amount of ₱20,000,000.00 in public funds attributable to petitioners' alleged malfeasance.

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[33] Section 2, Rule 111 of the Rules of Court partly provides:
SEC. 2**.** *When separate civil action is suspended*. –
x x x x
The extinction of the penal action does not carry with it extinction of the civil action. However, the civil action based on delict may be deemed extinguished if there is a finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist.

[34] G.R. No. 80130, August 19, 1991, 200 SCRA 806, 814-815.

[35] 240 Phil. 326, 331 (1987).

[36] Section 2, Rule 120 of the Rules of Court partly provides:
SEC. 2. *Contents of the Judgment*. –
x x x x
In case the judgment is of acquittal, it shall state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. **In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist**. (Emphasis supplied)

WHEREFORE, the petitions are hereby **GRANTED**. The assailed Resolutions dated October 6, 2009 and February 10, 2010 of the First Division of the Sandiganbayan are **ANNULLED** and **SET ASIDE**. The Sandiganbayan is likewise ordered to **DISMISS** Crim. Case No. SB-09-CRM-0154 for violation of the Constitutional right to speedy disposition of cases of petitioners Rafael L. Coscolluela, Edwin N. Nacionales, Dr. Ernesto P. Malvas, and Jose Ma. G. Amugod, without prejudice to any civil action which the Province of Negros Occidental may file against petitioners.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the cases were 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 cases were assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P.A. SERENO
Chief Justice