



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

DAVID A. RAYMUNDO,
Petitioner,

G.R. No. 191594

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

GALEN REALTY AND MINING
CORPORATION,
Respondent.

Promulgated:

OCT 16 2013

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DECISION

REYES, J.:

Assailed in the present Petition for Review on *Certiorari* under Rule 45¹ of the Rules of Court is the Decision² dated October 30, 2009 and Resolution³ dated March 10, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 105401, which dismissed petitioner David A. Raymundo's (Raymundo) special civil action for *certiorari* for lack of merit.

Facts of the Case

Civil Case No. 18808 is an action for Reconveyance with Damages filed by respondent Galen Realty and Mining Corporation (Galen) against Raymundo and Tensorex Corporation (Tensorex). Subject of the case was a

¹ Rollo, pp. 11-39.

² Penned by Associate Justice Portia Aliño-Hormachuelos (retired), with Associate Justices Fernanda Lampas Peralta and Ramon R. Garcia, concurring; id. at 44-61.

³ Id. at 63-64.

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transaction between Galen and Raymundo over a house and lot located in Urdaneta Village, Makati City originally covered by Transfer Certificate of Title (TCT) No. S-105-651 in the name of Galen. By virtue of a Deed of Sale dated September 9, 1987 executed between Galen and Raymundo, title to the property was transferred to the latter, who later on sold the property to Tensorex, which caused the issuance of TCT No. 149755 in its name.

In a Decision dated April 12, 2000, the Regional Trial Court (RTC) of Makati City, Branch 62, in Civil Case No. 18808, ruled that the transaction between Raymundo and Galen was actually an equitable mortgage.⁴ On appeal, the CA upheld the RTC decision but modified the loan obligation of Galen and reduced the same to ₱3,865,000.00. The dispositive portion of the CA Decision⁵ dated May 7, 2004 provides:

WHEREFORE, PREMISES CONSIDERED, the Assailed Decision is hereby MODIFIED as follows:

- V) the Deed of Absolute Sale between plaintiff-appellant and defendant-appellant David Raymundo is declared null and void, being a Deed of Equitable Mortgage;
- VI) the Deed of Sale between defendant-appellant David Raymundo and defendant-appellant Tensorex [is] declared null and void;
- VII) **defendant-appellant David Raymundo to reconvey the subject property to plaintiff-appellant's [sic] upon plaintiff-appellant's] payment to defendant-appellant David Raymundo of [₱]3,865,000.00 plus legal interest thereon from the date of filing of the complaint, until it is fully paid, or if reconveyance is no longer feasible, for defendants-appellants Raymundo and Tensorex to solidarily pay plaintiff-appellant the fair market value of the subject property by expert appraisal;**
- VIII) defendants-appellants Raymundo and Tensorex to solidarily pay plaintiff-appellant, as follows:
 - a) [₱]100,000.00 in exemplary damages;
 - b) [₱]100,000.00 in attorney's fees;
 - c) Cost[s] of suit.

Defendants-appellant's COUNTERCLAIM is hereby **DISMISSED.**

SO ORDERED.⁶ (Emphasis ours)

⁴ See CA Decision dated May 7, 2004 in CA-G.R. CV No. 68294; id. at 75-90.

⁵ Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Danilo B. Pine and Edgardo F. Sundiam, concurring; id.

⁶ Id. at 89-90.

Said CA decision eventually became final and executory on January 11, 2005, and entry of judgment was made.⁷

Galen moved for the execution of the CA decision, submitting that the writ of execution should order Raymundo and Tensorex to solidarily pay the following: (1) the current fair market value of the property less Galen's mortgage debt of ₱3,865,000.00 with legal interest; and (2) the award of damages and costs of suit. Raymundo and Tensorex opposed the motion, arguing that the CA decision provides for two alternatives – one, for Raymundo to reconvey the property to Galen after payment of ₱3,865,000.00 with legal interest or, two, if reconveyance is no longer feasible, for Raymundo and Tensorex to solidarily pay Galen the fair market value of the property.⁸

In its Order⁹ dated February 3, 2006, the RTC granted Galen's motion and ordered the issuance of a writ of execution. The property (land and improvements) was appraised by Asian Appraisal, Inc. at ₱49,470,000.00.¹⁰ Subsequently, the appointed special sheriff issued a Notice of Reconveyance/Notice of Demand to Pay¹¹ on March 8, 2007. The sheriff also issued on April 4, 2007 a Notice of Levy on Execution¹² to the Register of Deeds of Makati City over the rights and interest of Tensorex over the property, including all buildings and improvements covered by TCT No. 149755.

On July 16, 2007, the special sheriff issued a Notice of Sheriff's Sale of Real Estate Property,¹³ stating that "the total outstanding balance of mortgage indebtedness as of January 25, 1988 and interest for 225 months with 2.25% interest is [₱]37,108,750.00 plus costs x x x,"¹⁴ and sale at public auction was set on August 8, 2007. Raymundo filed a Manifestation and Urgent Motion¹⁵ objecting to the auction sale and expressing his willingness to reconvey the property upon payment in full by Galen of its indebtedness. Galen filed a Counter Manifestation and Opposition¹⁶ claiming that reconveyance is no longer feasible as the property is heavily encumbered and title to the property is still in the name of Tensorex which had already gone out of operations and whose responsible officers are no longer accessible.

⁷ Id. at 92.

⁸ Id. at 97.

⁹ Id. at 97-98.

¹⁰ Id. at 96.

¹¹ Id. at 99.

¹² Id. at 100.

¹³ Id. at 101-102.

¹⁴ Id.

¹⁵ Id. at 103-108.

¹⁶ Id. at 185-188.

Raymundo also submitted on August 6, 2007 a duplicate copy of the Cancellation of the Real Estate Mortgages¹⁷ over the property. As regards the other entries on the title, Raymundo stated that these do not affect his rights, interests and participation over the property as the Notice of *Lis Pendens* of Civil Case No. 18808 inscribed on September 27, 1990 was superior to these entries.¹⁸ On the same date, the RTC issued an Order¹⁹ noting Raymundo's motions, ordering him to show proof how his willingness to reconvey the property can be realized, and holding the auction sale in abeyance. The order also provided that "[c]ompliance herein is enjoined x x x, which proof shall consist primarily of a submission of the Transfer Certificate of Title covering the subject property duly registered in Raymundo's name."²⁰

Raymundo filed a Compliance/Comment²¹ to the RTC's order, contending that his obligation to reconvey is not yet due pending payment of Galen's own obligation.

On December 12, 2007, the RTC issued an Order²² lifting the suspension of the auction sale and directing Galen to coordinate with the deputy sheriff for the enforcement of the decision. The RTC ruled that Raymundo failed to show proof that the title was already registered in his name and thus, it resolves to deny his compliance/comment.

Raymundo filed a Motion for Reconsideration²³ of the RTC's order but it was denied per Order²⁴ dated August 15, 2008. As a result, the property was sold at a public auction on November 26, 2008 for ₱37,108,750.00, with Galen as the highest bidder, and a certificate of sale²⁵ was issued by the sheriff.

Raymundo then filed a special civil action for *certiorari* with the CA. In the assailed Decision²⁶ dated October 30, 2009, the petition was dismissed for lack of merit. His motion for reconsideration having been denied in the assailed CA Resolution²⁷ dated March 10, 2010, Raymundo is now seeking recourse with the Court on petition for review under Rule 45 of the Rules of Court.

¹⁷ Id. at 114.

¹⁸ Id. at 111-113.

¹⁹ Id. at 109-110.

²⁰ Id. at 110.

²¹ Id. at 115-120.

²² Id. at 130-131.

²³ Id. at 132-136.

²⁴ Id. at 137-138.

²⁵ Id. at 139-140.

²⁶ Id. at 44-61.

²⁷ Id. at 63-64.

Raymundo contends that the CA committed an error in upholding the validity of RTC's writ of execution. He argues that the writ changed the tenor of the final and executory CA decision as his obligation under said decision is to reconvey the property upon Galen's payment of its obligation. Raymundo also argues that the sale on public auction of the property was void inasmuch as the RTC's conclusion, as affirmed by the CA, that reconveyance is no longer feasible has no basis.²⁸

Galen, on the other hand, claims that Raymundo was given the option to choose between reconveyance and payment of the fair market value of the property but did not manifest his choice. It was only when the property was set for sale at public auction that Raymundo manifested his choice of reconveyance, which was opposed by Galen because by that time, the property was still in the name of Tensorex and was already heavily encumbered.²⁹ Galen maintains that the writ of execution and the auction sale was valid inasmuch as payment of the fair market value of the property is the only feasible way to satisfy the judgment.

Ruling of the Court

The manner of execution of a final judgment is not a matter of "choice". It does not revolve upon the pleasure or discretion of a party as to how a judgment should be satisfied, unless the judgment expressly provides for such discretion. Foremost rule in execution of judgments is that "a writ of execution must conform strictly to every essential particular of the judgment promulgated, and may not vary the terms of the judgment it seeks to enforce, nor may it go beyond the terms of the judgment sought to be executed."³⁰ As a corollary rule, the Court has clarified that "a judgment is not confined to what appears on the face of the decision, but extends as well to those necessarily included therein or necessary thereto."³¹

In this case, the writ of execution issued by the RTC originated from Civil Case No. 18808, which is an action for Reconveyance with Damages filed by Galen against Raymundo and Tensorex, where Galen sought recovery of the property subject of the Deed of Absolute Sale between Galen and Raymundo. The RTC ruled in favor of Galen, finding that the transaction between them is an equitable mortgage, which was affirmed by the CA. Both the RTC and the CA, in the dispositive portions of their respective decisions, ordered Raymundo to "**reconvey the subject property**

²⁸ Id. at 33-37.

²⁹ Id. at 168-169.

³⁰ *Tumibay v. Soro*, G.R. No. 152016, April 13, 2010, 618 SCRA 169, 175-176, citing *Mahinay v. Asis*, G.R. No. 170349, February 12, 2009, 578 SCRA 562, 574 and *Ingles v. Cantos*, 516 Phil. 496, 506 (2006); *B.E. San Diego, Inc. v. Alzul*, 551 Phil. 841 (2007).

³¹ *Tumibay v. Soro*, id. at 176, citing *DHL Philippines Corp. United Rank and File Asso. Federation of Free Workers v. Buklod ng Manggagawa ng DHL Philippines Corp.*, 478 Phil. 842, 853 (2004) and *Jaban v. CA*, 421 Phil. 896, 904 (2001).

to [Galen] upon [Galen's] payment to x x x Raymundo x x x plus legal interest thereon from the date of [the] filing of the complaint, until it is fully paid, **or if reconveyance is no longer feasible**, for x x x Raymundo and Tensorex **to solidarily pay [Galen] the fair market value of the subject property** by expert appraisal.”³² In implementing said judgment, the RTC should have considered the nature of the agreement between Galen and Raymundo. The rule is that in case of ambiguity or uncertainty in the dispositive portion of a decision, the body of the decision may be scanned for guidance in construing the judgment.³³

Nevertheless, the import of the dispositive portion of the CA Decision dated May 7, 2004 is clear. The principal obligation of Raymundo under the judgment is to reconvey the property to Galen; on the other hand, Galen's principal obligation is to pay its mortgage obligation to Raymundo. Performance of Raymundo's obligation to reconvey is upon Galen's payment of its mortgage obligation in the amount of ₱3,865,000.00 plus legal interest thereon from the date of the filing of the complaint, until fully paid. This is in accord with the nature of the agreement as an equitable mortgage where the real intention of the parties is to charge the real property as security for a debt.³⁴ It was wrong for the RTC to require Raymundo to show proof of his “willingness” to reconvey the property because as stressed earlier, their agreement was an equitable mortgage and as such, Galen retained ownership of the property.³⁵ In *Montevirgen, et al. v. CA, et al.*,³⁶ the Court was emphatic in stating that “the circumstance that the original transaction was subsequently declared to be an equitable mortgage must mean that the title to the subject land which had been transferred to private respondents actually remained or is transferred back to [the] petitioners herein as owners-mortgagors, conformably to the well-established doctrine that the mortgagee does not become the owner of the mortgaged property because the ownership remains with the mortgagor.”³⁷ Thus, it does not devolve upon Raymundo to determine whether he is willing to reconvey the property or not because it was not his to begin with. If Raymundo refuses to reconvey the property, then the court may direct that the act be done by some other person appointed by it as authorized by Section 10 of Rule 39 of the Rules of Court, to wit:

Sec. 10. Execution of judgments for specific act. (a) conveyance, delivery of deeds, or other specific acts; vesting title.—If a judgment directs a party to execute a conveyance of land or personal property, or to deliver deeds or other documents, or to perform any other specific act in connection therewith, **and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the**

³² *Rollo*, p. 48.

³³ *Pastor, Jr. et al. v. CA, et al.*, 207 Phil. 758, 767 (1983).

³⁴ *Muñoz, Jr. v. Ramirez*, G.R. No. 156125, August 25, 2010, 629 SCRA 38, 51.

³⁵ *Roberts v. Papio*, 544 Phil. 280, 300-301 (2007).

³⁶ 198 Phil. 338 (1982).

³⁷ *Id.* at 348, citing CIVIL CODE, Article 2088.

disobedient party by some other person appointed by the court and the act when so done shall have like effect as if done by the party. If real or personal property is situated within the Philippines, the court in lieu of directing a conveyance thereof may by an order divest the title of any party and vest it in others, which shall have the force and effect of a conveyance executed in due form of law. (Emphasis and underscoring ours)

The “some other person appointed by the court” can be the Branch Clerk of Court,³⁸ the Sheriff,³⁹ or even the Register of Deeds,⁴⁰ and their acts when done under such authority shall have the effect of having been done by Raymundo himself. A party cannot frustrate execution of a judgment for a specific act on the pretext of inability to do so as the Rules provide ample means by which it can be satisfied.

Conversely, Galen’s obligation to pay the mortgage obligation is not subject to Raymundo’s reconveyance of the property. If Galen refuses to pay, it is only then that the court may direct the foreclosure of the mortgage on the property and order its sale at public auction to satisfy Galen’s judgment debt against Raymundo, pursuant to Rule 68 of the Rules of Court on Foreclosure.⁴¹ If Raymundo, meanwhile, unjustly refuses to accept Galen’s payment, the latter’s remedy is to consign the payment with the court in accordance with the Civil Code provisions on consignment.

It is only when reconveyance is no longer feasible that Raymundo and Tensorex should pay Galen the fair market value of the property. In other words, it is when the property has passed on to an innocent purchaser for value and in good faith, has been dissipated, or has been subjected to an analogous circumstance which renders the return of the property impossible that Raymundo and/or Tensorex, is obliged to pay Galen the fair market value of the property.

In this case, it appears that the RTC accommodated Galen’s choice of payment of the fair market value of the property and it became the main obligation of Raymundo as well as Tensorex instead of being the alternative. Worse, it even considered the subject property as absolutely owned by Tensorex and levied upon the same to satisfy payment of the fair market value of the very property that has only been pledged as security of Galen’s loan. While it indeed appears that Raymundo was able to transfer title of the property to Tensorex, it should be noted that the latter is a party to Civil Case No. 18808 and is necessarily bound by the judgment. The dissolution of Tensorex is not a valid reason to avoid reconveyance inasmuch as the court

³⁸ See *Balais-Mabanag v. Register of Deeds of Quezon City*, G.R. No. 153142, March 29, 2010, 617 SCRA 1, 10.

³⁹ *Tumibay v. Soro*, supra note 30, at 178-179, citing *Buñag v. CA*, 363 Phil. 216 (1999).

⁴⁰ *Cruz v. Court of Appeals*, 459 Phil. 264, 282 (2003).

⁴¹ *Spouses Rosales v. Spouses Suba*, 456 Phil. 127, 133 (2003).

may order the transfer of title to Galen by some other person appointed by the court in accordance with Section 10, Rule 39 of the Rules of Court.

The existence of subsequent encumbrances on the property is also not a sufficient ground to insist on the payment of its fair market value. To begin with, it was Galen which sought the return of the property by filing the civil case. Moreover, as correctly pointed out by Raymundo, whatever transactions Tensorex entered into is subject to the notice of *lis pendens* which serves as a constructive notice to purchasers or other persons subsequently dealing with the same property.⁴² Further, having Raymundo and/or Tensorex keep the property (and later on levy upon the same) and order the payment of its fair market value virtually amounts to a sale, which goes against the RTC and CA's conclusion that the transaction subject of Civil Case No. 18808 is not a sale but an equitable mortgage. It also violates the very public policy that prohibits *pactum commissorium*.⁴³ In the early case of *Guanzon v. Hon. Argel*,⁴⁴ which also involves an equitable mortgage, the Court ruled –

In no way can the judgment at bar be construed to mean that should the Dumaraogs fail to pay the money within the specified period then the party would be conveyed by the Sheriff to Guanzon. Any interpretation in that sense would contradict the declaration made in the same judgment that the contract between the parties was in fact a mortgage and not a *pacto de retro* sale. x x x The mortgagor's default does not operate to vest in the mortgagee the ownership of the encumbered property, for any such effect is against public policy, as enunciated by the Civil Code. **The court can not be presumed to have adjudged what would be contrary to law, unless it be plain and inescapable from its final judgment. No such purport appears or is legitimately inferable from the terms of the judgment aforequoted.** x x x.⁴⁵ (Citation omitted and emphasis ours)

The RTC, therefore, committed grave abuse of discretion in ordering the payment of the fair market value of the subject property despite the fact that reconveyance is still feasible under the circumstances of this case. Consequently, the CA committed a reversible error in sustaining the assailed RTC orders and in dismissing Raymundo's special civil action for *certiorari* for lack of merit.

In *Muñoz v. Ramirez*,⁴⁶ the Court stated:

⁴² *Mahinay v. Gako, Jr.*, G.R. No. 165338, November 28, 2011, 661 SCRA 274, 297, citing *Yu v. CA*, 321 Phil. 897, 901 (1995).

⁴³ Article 2088 of the CIVIL CODE provides that "[t]he creditor cannot appropriate the things given by way of pledge or mortgage, or dispose of them. Any stipulation to the contrary is null and void." See also *Briones-Vasquez v. Court of Appeals*, 491 Phil. 81, 94-95 (2005), which ruled that the principle of *pactum commissorium* is applicable to equitable mortgages.

⁴⁴ 144 Phil. 418 (1970).

⁴⁵ Id. at 423-424.

⁴⁶ G.R. No. 156125, August 25, 2010, 629 SCRA 38.

In *Lustan v. CA*, where we established the reciprocal obligations of the parties under an equitable mortgage, we ordered the reconveyance of the property to the rightful owner therein upon the payment of the loan **within 90 days from the finality of this decision.**⁴⁷ (Emphasis ours)

Before concluding, the Court notes that under the final and executory CA Decision dated May 7, 2004, Galen was adjudged to pay Raymundo the sum of ₱3,865,000.00 with legal interest from the date of the filing of the complaint until fully paid. Raymundo, meanwhile, was ordered to pay damages, attorney's fees and costs of suit.

In *Sunga-Chan v. Court of Appeals*,⁴⁸ the Court, citing *Eastern Shipping Lines, Inc. v. Court of Appeals*,⁴⁹ reiterated the rule on the rates and application of interests, viz:

Eastern Shipping Lines, Inc. synthesized the rules on the imposition of interest, if proper, and the applicable rate, as follows: **The 12% per annum rate under CB Circular No. 416 shall apply only to loans or forbearance of money, goods, or credits, as well as to judgments involving such loan or forbearance of money, goods, or credit, while the 6% per annum under Art. 2209 of the Civil Code applies “when the transaction involves the payment of indemnities in the concept of damage arising from the breach or a delay in the performance of obligations in general,”** with the application of both rates reckoned “from the time the complaint was filed until the [adjudged] amount is fully paid.” In either instance, the reckoning period for the commencement of the running of the legal interest shall be subject to the condition “that the courts are vested with discretion, depending on the equities of each case, on the award of interest.”

Otherwise formulated, the norm to be followed in the future on the rates and application thereof is:

“x x x x

II.—With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

1. When the obligation [is] breached[, and it] consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. **In the absence of stipulation, the**

⁴⁷ Id. at 54, citing *Lustan v. CA*, 334 Phil. 609, 620 (1997). See also *Bacungan v. CA*, G.R. No. 170282, December 18, 2008, 574 SCRA 642, 650.

⁴⁸ 578 Phil. 262 (2008).

⁴⁹ G.R. No. 97412, July 12, 1994, 234 SCRA 78.

rate of interest shall be 12% *per annum* to be computed from default, *i.e.*, from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.

X X X X

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% *per annum* from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.”⁵⁰ (Citations omitted and emphases and underscoring ours)

Recently, the Monetary Board of the *Bangko Sentral ng Pilipinas* issued Resolution No. 796 dated May 16, 2013, revising the interest rate to be imposed for the loan or forbearance of any money, goods or credits, in the absence of an express contract, to six percent (6%) *per annum*. This was implemented by BSP Circular No. 799 dated June 21, 2013 and effective July 1, 2013.

Applying the foregoing guidelines, the following rates are to be imposed on the parties’ respective obligations:

(a) Galen’s mortgage indebtedness shall earn interest at the rate of 12% *per annum* from the date of the filing of the complaint on January 25, 1988⁵¹ until June 30, 2013; thereafter, it shall earn six percent (6%) interest *per annum* until fully paid. The Court is constrained to retain the application of the interest rate from the filing of the complaint until full payment because the CA’s judgment on this score has already attained finality and cannot be disturbed at this stage;⁵² and

(b) The damages, attorney’s fees and costs to be paid by Raymundo shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of the CA Decision on May 7, 2004 until fully paid.

WHEREFORE, the petition is **GRANTED**. The Decision dated October 30, 2009 and Resolution dated March 10, 2010 of the Court of Appeals in CA-G.R. SP No. 105401 are **REVERSED** and **SET ASIDE**. Accordingly, the assailed Orders dated August 6, 2007, December 12, 2007

⁵⁰ Supra note 48, at 276-278.

⁵¹ *Rollo*, p. 47.

⁵² See *Penta Capital Corporation v. Bay*, G.R. No. 162100, January 18, 2012, 663 SCRA 192, 213-214.


and August 15, 2008 of the Regional Trial Court of Makati City, Branch 62, as well as the writ of execution dated January 10, 2007 and all other orders, writs and processes issued pursuant thereto are **NULLIFIED**.

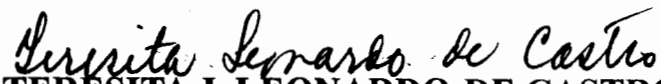
The RTC of Makati City, Branch 62 is **DIRECTED** to implement the Decision dated May 7, 2004 of the Court of Appeals in accordance with this Decision, and subject to the interest rates discussed herein.

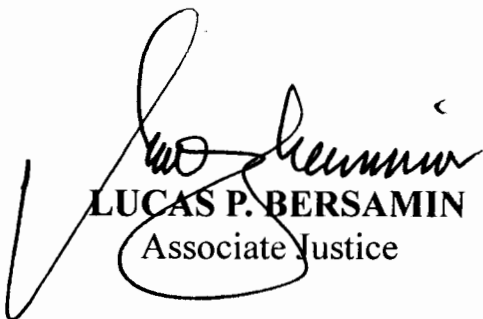
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
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's Division.



MARIA LOURDES P. A. SERENO

Chief Justice