Republic of the Philippines
Supreme Court
Manila

EN BANC

HEIRS OF MARIO MALABANAN, (Represented by Sally A. Malabanan), Petitioners,	**G.R. No. 179987**
	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* -	
	Promulgated:
REPUBLIC OF THE PHILIPPINES, Respondent.	**SEPTEMBER 03, 2013**

x - x

RESOLUTION

BERSAMIN, *J.*:

For our consideration and resolution are the motions for reconsideration of the parties who both assail the decision promulgated on April 29, 2009, whereby we upheld the ruling of the Court of Appeals (CA) denying the application of the petitioners for the registration of a parcel of land situated in Barangay Tibig, Silang, Cavite on the ground that they had not established by sufficient evidence their right to the registration in accordance with either Section 14(1) or Section 14(2) of Presidential Decree No. 1529 (*Property Registration Decree*).

Antecedents

The property subject of the application for registration is a parcel of land situated in Barangay Tibig, Silang Cavite, more particularly identified as Lot 9864-A, Cad-452-D, with an area of 71,324-square meters. On February 20, 1998, applicant Mario Malabanan, who had purchased the property from Eduardo Velazco, filed an application for land registration covering the property in the Regional Trial Court (RTC) in Tagaytay City, Cavite, claiming that the property formed part of the alienable and disposable land of the public domain, and that he and his predecessors-in-interest had been in open, continuous, uninterrupted, public and adverse possession and occupation of the land for more than 30 years, thereby entitling him to the judicial confirmation of his title.[1]

To prove that the property was an alienable and disposable land of the public domain, Malabanan presented during trial a certification dated June 11, 2001 issued by the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR), which reads:

> This is to certify that the parcel of land designated as Lot No. 9864 Cad 452-D, Silang Cadastre as surveyed for Mr. Virgilio Velasco located at Barangay Tibig, Silang, Cavite containing an area of 249,734 sq. meters as shown and described on the Plan Ap-04-00952 is verified to be within the Alienable or Disposable land per Land Classification Map No. 3013 established under Project No. 20-A and approved as such under FAO 4-1656 on March 15, 1982.[2]

After trial, on December 3, 2002, the RTC rendered judgment granting Malabanan's application for land registration, disposing thusly:

> WHEREFORE, this Court hereby approves this application for registration and thus places under the operation of Act 141, Act 496 and/or P.D. 1529, otherwise known as Property Registration Law, the lands described in Plan Csd-04-0173123-D, Lot 9864-A and containing an area of Seventy One Thousand Three Hundred Twenty Four (71,324) Square Meters, as supported by its technical description now forming part of the record of this case, in addition to other proofs adduced in the name of MARIO MALABANAN, who is of legal age, Filipino, widower, and with residence at Munting Ilog, Silang, Cavite.
>
> Once this Decision becomes final and executory, the corresponding decree of registration shall forthwith issue.
>
> SO ORDERED.[3]

---

1 *Rollo*, pp. 16-17.
2 Id. at 37-38.
3 Id. at 87.

The Office of the Solicitor General (OSG) appealed the judgment to the CA, arguing that Malabanan had failed to prove that the property belonged to the alienable and disposable land of the public domain, and that the RTC erred in finding that he had been in possession of the property in the manner and for the length of time required by law for confirmation of imperfect title.

On February 23, 2007, the CA promulgated its decision reversing the RTC and dismissing the application for registration of Malabanan. Citing the ruling in *Republic v. Herbieto* (*Herbieto*),[4] the CA declared that under Section 14(1) of the *Property Registration Decree*, any period of possession prior to the classification of the land as alienable and disposable was inconsequential and should be excluded from the computation of the period of possession. Noting that the CENRO-DENR certification stated that the property had been declared alienable and disposable only on March 15, 1982, Velazco's possession prior to March 15, 1982 could not be tacked for purposes of computing Malabanan's period of possession.

Due to Malabanan's intervening demise during the appeal in the CA, his heirs elevated the CA's decision of February 23, 2007 to this Court through a petition for review on *certiorari.*

The petitioners assert that the ruling in *Republic v. Court of Appeals and Corazon Naguit*[5] (*Naguit*) remains the controlling doctrine especially if the property involved is agricultural land. In this regard, *Naguit* ruled that any possession of agricultural land prior to its declaration as alienable and disposable could be counted in the reckoning of the period of possession to perfect title under the *Public Land Act* (Commonwealth Act No. 141) and the *Property Registration Decree*. They point out that the ruling in *Herbieto*, to the effect that the declaration of the land subject of the application for registration as alienable and disposable should also date back to June 12, 1945 or earlier, was a mere *obiter dictum* considering that the land registration proceedings therein were in fact found and declared void *ab initio* for lack of publication of the notice of initial hearing.

The petitioners also rely on the ruling in *Republic v. T.A.N. Properties, Inc.*[6] to support their argument that the property had been *ipso jure* converted into private property by reason of the open, continuous, exclusive and notorious possession by their predecessors-in-interest of an alienable land of the public domain for more than 30 years. According to them, what was essential was that the property had been "converted" into private property through prescription at the time of the application without

---

4 G.R. No. 156117, May 26, 2005, 459 SCRA 183.
5 G.R. No. 144057, January 17, 2005, 448 SCRA 442.
6 G.R. No. 154953, June 26, 2008, 555 SCRA 477.

regard to whether the property sought to be registered was previously classified as agricultural land of the public domain.

As earlier stated, we denied the petition for review on *certiorari* because Malabanan failed to establish by sufficient evidence possession and occupation of the property on his part and on the part of his predecessors-in interest since June 12, 1945, or earlier.

Petitioners' Motion for Reconsideration

In their motion for reconsideration, the petitioners submit that the mere classification of the land as alienable or disposable should be deemed sufficient to convert it into patrimonial property of the State. Relying on the rulings in *Spouses De Ocampo v. Arlos*,[7] *Menguito v. Republic*[8] and *Republic v. T.A.N. Properties, Inc.*,[9] they argue that the reclassification of the land as alienable or disposable opened it to acquisitive prescription under the *Civil Code*; that Malabanan had purchased the property from Eduardo Velazco believing in good faith that Velazco and his predecessors-in-interest had been the real owners of the land with the right to validly transmit title and ownership thereof; that consequently, the ten-year period prescribed by Article 1134 of the *Civil Code*, in relation to Section 14(2) of the *Property Registration Decree*, applied in their favor; and that when Malabanan filed the application for registration on February 20, 1998, he had already been in possession of the land for almost 16 years reckoned from 1982, the time when the land was declared alienable and disposable by the State.

The Republic's Motion for Partial Reconsideration

The Republic seeks the partial reconsideration in order to obtain a clarification with reference to the application of the rulings in *Naguit* and *Herbieto.*

Chiefly citing the dissents, the Republic contends that the decision has enlarged, by implication, the interpretation of Section 14(1) of the *Property Registration Decree* through judicial legislation. It reiterates its view that an applicant is entitled to registration only when the land subject of the application had been declared alienable and disposable since June 12, 1945 or earlier.

---

7 G.R. No. 135527, October 19, 2000, 343 SCRA 716.
8 G.R. No. 134308, December 14, 2000, 348 SCRA 128.
9 Supra note 6.

Ruling

We deny the motions for reconsideration.

In reviewing the assailed decision, we consider to be imperative to discuss the different classifications of land in relation to the existing applicable land registration laws of the Philippines.

Classifications of land according to ownership

Land, which is an immovable property,[10] may be classified as either of public dominion or of private ownership.[11] Land is considered of public dominion if it either: (*a*) is intended for public use; or (*b*) belongs to the State, without being for public use, and is intended for some public service or for the development of the national wealth.[12] Land belonging to the State that is not of such character, or although of such character but no longer intended for public use or for public service forms part of the patrimonial property of the State.[13] Land that is other than part of the patrimonial property of the State, provinces, cities and municipalities is of private ownership if it belongs to a private individual.

Pursuant to the Regalian Doctrine (*Jura Regalia*), a legal concept first introduced into the country from the West by Spain through the Laws of the Indies and the *Royal Cedulas*,[14] all lands of the public domain belong to the State.[15] This means that the State is the source of any asserted right to ownership of land, and is charged with the conservation of such patrimony.[16] All lands not appearing to be clearly under private ownership are presumed to belong to the State. Also, public lands remain part of the inalienable land of the public domain unless the State is shown to have reclassified or alienated them to private persons.[17]

Classifications of public lands according to alienability

Whether or not land of the public domain is alienable and disposable primarily rests on the classification of public lands made under the

---

[10] Article 415(1), *Civil Code*.
[11] Article 419, *Civil Code*.
[12] Article 420, *Civil Code*.
[13] Article 421, *Civil Code*.
[14] *Cruz v. Secretary of Environment and Natural Resources*, G.R. No. 135385, December 6, 2000, 347 SCRA 128, 165.
[15] Section 2, Art. XII, 1987 Constitution.
[16] *Republic v. Intermediate Appellate Court*, No. L-71285, November 5, 1987, 155 SCRA 412, 419.
[17] *Republic v. Lao*, G.R. No. 150413, July 1, 2003, 405 SCRA 291, 298.

Constitution. Under the 1935 Constitution,[18] lands of the public domain were classified into three, namely, agricultural, timber and mineral.[19] Section 10, Article XIV of the 1973 Constitution classified lands of the public domain into seven, specifically, agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing land, with the reservation that the law might provide other classifications. The 1987 Constitution adopted the classification under the 1935 Constitution into agricultural, forest or timber, and mineral, but added national parks.[20] Agricultural lands may be further classified by law according to the uses to which they may be devoted.[21] The identification of lands according to their legal classification is done exclusively by and through a positive act of the Executive Department.[22]

Based on the foregoing, the Constitution places a limit on the type of public land that may be alienated. Under Section 2, Article XII of the 1987 Constitution, only agricultural lands of the public domain may be alienated; all other natural resources may not be.

Alienable and disposable lands of the State fall into two categories, to wit: (*a*) patrimonial lands of the State, or those classified as lands of private ownership under Article 425 of the *Civil Code*,[23] without limitation; and (*b*) lands of the public domain, or the public lands as provided by the Constitution, but with the limitation that the lands must only be agricultural. Consequently, lands classified as forest or timber, mineral, or national parks are not susceptible of alienation or disposition unless they are reclassified as agricultural.[24] A positive act of the Government is necessary to enable such reclassification,[25] and the exclusive prerogative to classify public lands under existing laws is vested in the Executive Department, not in the courts.[26] If, however, public land will be classified as neither agricultural, forest or timber, mineral or national park, or when public land is no longer intended

---

[18] 1935 Constitution, Art. XIII, Sec. 1.

[19] *Krivenko v. Register of Deeds of Manila*, 79 Phil. 461, 468 (1947).

[20] Section 3 of Article XII, 1987 Constitution states:

> Section 3. Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead, or grant.
>
> Taking into account the requirements of conservation, ecology, and development, and subject to the requirements of agrarian reform, the Congress shall determine, by law, the size of lands of the public domain which may be acquired, developed, held, or leased and the conditions therefor.

[21] Id.

[22] See Bernas, *The 1987 Constitution*, 2009 Ed., pp. 1188-1189.

[23] Article 425. Property of private ownership, besides the patrimonial property of the State, provinces, cities, and municipalities, consists of all property belonging to private persons, either individually or collectively. (345a)

[24] *Director of Forestry v. Villareal*, G.R. No. 32266, February 27, 1989, 170 SCRA 598, 608-609.

[25] *Heirs of Jose Amunategui v. Director of Forestry*, No. L-27873, November 29, 1983, 126 SCRA 69, 75.

[26] *Director of Lands v. Court of Appeals*, No. L-58867, June 22, 1984, 129 SCRA 689, 692.

for public service or for the development of the national wealth, thereby effectively removing the land from the ambit of public dominion, a declaration of such conversion must be made in the form of a law duly enacted by Congress or by a Presidential proclamation in cases where the President is duly authorized by law to that effect.[27] Thus, until the Executive Department exercises its prerogative to classify or reclassify lands, or until Congress or the President declares that the State no longer intends the land to be used for public service or for the development of national wealth, the Regalian Doctrine is applicable.

Disposition of alienable public lands

Section 11 of the *Public Land Act* (CA No. 141) provides the manner by which alienable and disposable lands of the public domain, *i.e.*, agricultural lands, can be disposed of, to wit:

> Section 11. Public lands suitable for agricultural purposes **can be disposed of only as follows, and not otherwise**:
>
> (1) For homestead settlement;
>
> (2) By sale;
>
> (3) By lease; and
>
> (4) By confirmation of imperfect or incomplete titles;
>
> (a) By judicial legalization; or
>
> (b) By administrative legalization (free patent).

The core of the controversy herein lies in the proper interpretation of Section 11(4), in relation to Section 48(b) of the *Public Land Act*, which expressly requires possession by a Filipino citizen of the land since June 12, 1945, or earlier, *viz*:

> Section 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title thereafter, under the Land Registration Act, to wit:
>
> x x x x
>
> (b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious

---

[27] *Republic v. Court of Appeals*, G.R. No. 127060, November 19, 2002, 392 SCRA 190, 201.

> possession and occupation of alienable and disposable lands of the public domain, under a *bona fide* claim of acquisition of ownership, **since June 12, 1945, or earlier**, immediately preceding the filing of the applications for confirmation of title, except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter. (Bold emphasis supplied)

Note that Section 48(b) of the Public Land Act used the words "*lands of the public domain*" or "*alienable and disposable lands of the public domain*" to clearly signify that lands otherwise classified, *i.e.*, mineral, forest or timber, or national parks, and lands of patrimonial or private ownership, are outside the coverage of the *Public Land Act*. What the law does not include, it excludes. The use of the descriptive phrase "*alienable and disposable*" further limits the coverage of Section 48(b) to only the agricultural lands of the public domain as set forth in Article XII, Section 2 of the 1987 Constitution. Bearing in mind such limitations under the *Public Land Act*, the applicant must satisfy the following requirements in order for his application to come under Section 14(1) of the *Property Registration Decree*,[28] to wit:

> 1. The applicant, by himself or through his predecessor-in-interest, has been in possession and occupation of the property subject of the application;
>
> 2. The possession and occupation must be open, continuous, exclusive, and notorious;
>
> 3. The possession and occupation must be under a *bona fide* claim of acquisition of ownership;
>
> 4. The possession and occupation must have taken place since June 12, 1945, or earlier; and
>
> 5. The property subject of the application must be an agricultural land of the public domain**.**

Taking into consideration that the Executive Department is vested with the authority to classify lands of the public domain, Section 48(b) of the

---

[28] Section 14. *Who may apply*. – The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.

x x x x

Public Land Act, in relation to Section 14(1) of the *Property Registration Decree*, presupposes that the land subject of the application for registration must have been already classified as agricultural land of the public domain in order for the provision to apply. Thus, absent proof that the land is already classified as agricultural land of the public domain, the Regalian Doctrine applies, and overcomes the presumption that the land is alienable and disposable as laid down in Section 48(b) of the *Public Land Act.* However, emphasis is placed on the requirement that the classification required by Section 48(b) of the *Public Land Act* is classification or reclassification of a public land as agricultural.

The dissent stresses that the classification or reclassification of the land as alienable and disposable agricultural land should likewise have been made on June 12, 1945 or earlier, because any possession of the land prior to such classification or reclassification produced no legal effects. It observes that the fixed date of June 12, 1945 could not be minimized or glossed over by mere judicial interpretation or by judicial social policy concerns, and insisted that the full legislative intent be respected.

We find, however, that the choice of June 12, 1945 as the reckoning point of the requisite possession and occupation was the sole prerogative of Congress, the determination of which should best be left to the wisdom of the lawmakers. Except that said date qualified the period of possession and occupation, no other legislative intent appears to be associated with the fixing of the date of June 12, 1945. Accordingly, the Court should interpret only the plain and literal meaning of the law as written by the legislators.

Moreover, an examination of Section 48(b) of the *Public Land Act* indicates that Congress prescribed no requirement that the land subject of the registration should have been classified as agricultural since June 12, 1945, or earlier. As such, the applicant's imperfect or incomplete title is derived only from possession and occupation since June 12, 1945, or earlier. This means that the character of the property subject of the application as alienable and disposable agricultural land of the public domain determines its eligibility for land registration, not the ownership or title over it. Alienable public land held by a possessor, either personally or through his predecessors-in-interest, openly, continuously and exclusively during the prescribed statutory period is converted to private property by the mere lapse or completion of the period.[29] In fact, by virtue of this doctrine, corporations may now acquire lands of the public domain for as long as the lands were already converted to private ownership, by operation of law, as a result of

---

[29] *Director of Lands v. Intermediate Appellate Court*, No. L-73002, December 29, 1986, 146 SCRA 509, 518. See also the dissenting opinion of Justice Teehankee in *Manila Electric Company v. Judge Castro-Bartolome*, No. L-49623, June 29, 1982, 114 SCRA 799, 813.

satisfying the requisite period of possession prescribed by the *Public Land Act*.[30] It is for this reason that the property subject of the application of Malabanan need not be classified as alienable and disposable agricultural land of the public domain for the entire duration of the requisite period of possession.

To be clear, then, the requirement that the land should have been classified as alienable and disposable agricultural land at the time of the application for registration is necessary only to dispute the presumption that the land is inalienable.

The declaration that land is alienable and disposable also serves to determine the point at which prescription may run against the State. The imperfect or incomplete title being confirmed under Section 48(b) of the *Public Land Act* is title that is acquired by reason of the applicant's possession and occupation of the alienable and disposable agricultural land of the public domain. Where all the necessary requirements for a grant by the Government are complied with through actual physical, open, continuous, exclusive and public possession of an alienable and disposable land of the public domain, the possessor is deemed to have acquired by operation of law not only a right to a grant, but a grant by the Government, because it is not necessary that a certificate of title be issued in order that such a grant be sanctioned by the courts.[31]

If one follows the dissent, the clear objective of the *Public Land Act* to adjudicate and quiet titles to unregistered lands in favor of qualified Filipino citizens by reason of their occupation and cultivation thereof for the number of years prescribed by law[32] will be defeated. Indeed, we should always bear in mind that such objective still prevails, as a fairly recent legislative development bears out, when Congress enacted legislation (Republic Act No. 10023)[33] in order to liberalize stringent requirements and procedures in the adjudication of alienable public land to qualified applicants, particularly residential lands, subject to area limitations.[34]

---

[30] *Director of Lands v. Intermediate Appellate Court*, No. L-73002, December 29, 1986, 146 SCRA 509, 521.

[31] *Susi v. Razon and Director of Lands*, 48 Phil. 424, 428 (1925); *Santos v. Court of Appeals*, G.R. No. 90380, September 13, 1990, 189 SCRA 550, 560; *Cruz v. Navarro*, No. L-27644, November 29, 1973, 54 SCRA 109, 115.

[32] x x x WHEREAS, it has always been the policy of the State to hasten the settlement, adjudication and quieting of titles to unregistered lands including alienable and disposable lands of the public domain in favor of qualified Filipino citizens who have acquired inchoate, imperfect and incomplete titles thereto by reason of their open, continuous, exclusive and notorious occupation and cultivation thereof under bonafide claim of acquisition of ownership for a number of years prescribed by law; x x x (Presidential Decree 1073)

[33] *An Act Authorizing the Issuance of Free Patents to Residential Lands* (Approved on March 9, 2010).

[34] Republic Act No. 10023 reduces the period of eligibility for titling from 30 years to 10 years of untitled public alienable and disposable lands which have been zoned as residential; and enables the applicant to apply with the Community Environment and Natural Resources Office of the Department of Environment and Natural Resources having jurisdiction over the parcel subject of the application, provided the land subject of the application should not exceed 200 square meters if it is in a highly urbanized city, 500 meters in other cities, 750 meters in first-class and second-class municipalities, and 1,000 meters in third-class municipalities.

On the other hand, if a public land is classified as no longer intended for public use or for the development of national wealth by declaration of Congress or the President, thereby converting such land into patrimonial or private land of the State, the applicable provision concerning disposition and registration is no longer Section 48(b) of the *Public Land Act* but the *Civil Code*, in conjunction with Section 14(2) of the *Property Registration Decree*.[35] As such, prescription can now run against the State.

To sum up, we now observe the following rules relative to the disposition of public land or lands of the public domain, namely:

(1) As a general rule and pursuant to the Regalian Doctrine, all lands of the public domain belong to the State and are inalienable. Lands that are not clearly under private ownership are also presumed to belong to the State and, therefore, may not be alienated or disposed;

(2) The following are excepted from the general rule, to wit:

(a) Agricultural lands of the public domain are rendered alienable and disposable through any of the exclusive modes enumerated under Section 11 of the *Public Land Act*. If the mode is judicial confirmation of imperfect title under Section 48(b) of the *Public Land Act*, the agricultural land subject of the application needs only to be classified as alienable and disposable as of the time of the application, provided the applicant's possession and occupation of the land dated back to June 12, 1945, or earlier. Thereby, a conclusive presumption that the applicant has performed all the conditions essential to a government grant arises,[36] and the applicant becomes the owner of the land by virtue of an imperfect or incomplete title. By legal fiction, the land has already ceased to be part of the public domain and has become private property.[37]

---

[35] Section 14. *Who may apply*. – The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

x x x x

(2) Those who have acquired ownership of private lands by prescription under the provisions of existing laws.

[36] *Republic v. Intermediate Appellate Court*, No. L-75042, November 29, 1988, 168 SCRA 165, 174.

[37] Dissenting opinion of Justice Teehankee in *Manila Electric Company v. Castro-Bartolome*, *supra*, note 29.

> *(b)* Lands of the public domain subsequently classified or declared as no longer intended for public use or for the development of national wealth are removed from the sphere of public dominion and are considered converted into patrimonial lands or lands of private ownership that may be alienated or disposed through any of the modes of acquiring ownership under the *Civil Code*. If the mode of acquisition is prescription, whether ordinary or extraordinary, proof that the land has been already converted to private ownership prior to the requisite acquisitive prescriptive period is a condition *sine qua non* in observance of the law (Article 1113, *Civil Code*) that property of the State not patrimonial in character shall not be the object of prescription.

To reiterate, then, the petitioners failed to present sufficient evidence to establish that they and their predecessors-in-interest had been in possession of the land since June 12, 1945. Without satisfying the requisite character and period of possession – possession and occupation that is open, continuous, exclusive, and notorious since June 12, 1945, or earlier – the land cannot be considered *ipso jure* converted to private property even upon the subsequent declaration of it as alienable and disposable. Prescription never began to run against the State, such that the land has remained ineligible for registration under Section 14(1) of the *Property Registration Decree*. Likewise, the land continues to be ineligible for land registration under Section 14(2) of the *Property Registration Decree* unless Congress enacts a law or the President issues a proclamation declaring the land as no longer intended for public service or for the development of the national wealth.

WHEREFORE, the Court **DENIES** the petitioners' Motion for Reconsideration and the respondent's Partial Motion for Reconsideration for their lack of merit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

CNO part due to relationship to a party

PRESBITERO J. VELASCO, JR.
Associate Justice

I submitted my vote joining the Separate Opinion of Justice Brion

In the Result: See Separate Opinion

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

See separate concurring and dissenting opinion

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 Resolution 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