



Republic of the Philippines
Supreme Court
Manila

WILLIAM J. DELA CRUZ
Division Clerk
Third Division
MAR 11 2017

THIRD DIVISION

CECILIO ABENION,
CANDELARIO S. CASIMSIMAN,
ERNESTO R. OLLEGUE, JIMMY
S. SALE, PONCIANO T.
TINAMBACAN, DOMINADOR S.
SELDURA, ANDRES P.
ATCHIVARA, ANTONIO M.
CABULANG, TIRSO S.
LIMBAGA, RAMON J. LIPER,
JUANITO P. GODOY, ANIANO J.
DEJESICA, JULITO I. JUNASA,
SOFRONIO S. DUMBASE,
APOLINAR S. ESTAÑO, BEN S.
ARIETA, VICENTE G. RIVAS,
GLORIA S. OMOÑA, MARINA L.
TABUDLONG, ERNESTO S.
PASCUAL, NEMIA S. ROSIL,
ROMEL M. RUEDAS, RODOLFO
N. ARTUBAL, VICTOR C.
HONOR, FRUTO M. PEDRAL,
JOVENTINO J. CADELIÑA,
CONSTANCIO S. COLE, TITO A.
CAPUYAN, JUANITO D.
LEGASPINO, ALFREDO V.
ACAS, CLOTILDO D. ALBASIN,
CERILO B. BALANGKIG,
ISMAEL M. BAUTISTA, JAGDON
D. CASTAÑEDO, PRIMITIVO A.
BANGAHO, SR., LEONARDO B.
DUMAN-AG, RODRIGO G.
PATRIS, SR., LITO B. LABAJO,
EUTEMIO C. ESTOSE, RUSTOM
T. TIO, BONIFACIO A. PUROL,
OSIAS A. ASURIZ, SR.,
RUDOLFO P. MACALISANG,
OSCAR G. MARTINEZ, VICTOR
D. SINGSON, JR., ERNESTO F.
FATALLO, ARNOLD S. BASTIDA,

G.R. No. 200749

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**ALFREDO L. MORALES,
 BIBIANO M. PANUDA,
 DEOGENES L. LAORDEN,
 CONCORDIO D. OCLARIT,
 VEVENCIO S. BASTIDA,
 NEMESIO D. OCLARIT,
 EGLESIO M. OCLARIT, SR.,
 CIPRIANO V. ABAT, ROMEO C.
 LUMAGOD, HERMINIGILDO P.
 EXCLAMADO, SILVESTRE D.
 EDILLON, PONCIANO B.
 GEROLAGA, LEOPOLDO D.
 ACEBEDO, EDUARDO B.
 ARCAMO, BENEDICTO P. DELA
 CRUZ, and CRISOSTOMO M.
 DIANA, SR.,**

Petitioners,

- versus -

**PILIPINAS SHELL PETROLEUM
 CORPORATION,**

Respondent.

X-----X

**CECILIO ABENION, BEN S.
 ARIETA, ERNESTO F. FATALLO,
 PONCIANO B. GEROLAGA,
 EGLESIO M. OCLARIT,
 NEMESIO D. OCLARIT,
 RODOLFO D. MACALISANG,
 FRUTO M. PEDRAL, OSIAS A.
 ASURIZ, SR., LEONARDO B.
 DUMAN-AG, VICTOR C. HONOR,
 PRIMITIVO M. BONGAHON,
 WILLIAM J. BADE,
 HERMINIGILDO P.
 EXCLAMADO, WARLITO E.
 BORRES, EDITO B. CAYANONG,
 EXEQUIEL M. LAPE, ANTONIO**

G.R. No. 208725

Present:

**VELASCO, JR., J.,
 Chairperson,
 BERSAMIN,
 REYES,
 JARDELEZA, and
 CAGUIOA,* JJ.**

* Designated Fifth Member of the Third Division per Special Order No. 2417 dated January 4, 2017.

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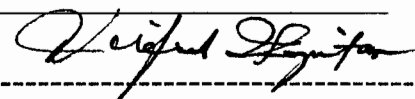
**A. JAROY, BUENAVENTURA A.
 BONONO, MAXIMO A.
 JUANILLO, BENEDICTO P.
 DELA CERNA, WILFREDO J.
 ESPAÑOLA, MARIANO S.
 CRISANTO, RICARDO Q. DAVID,
 REYNALDO O. ICOY,
 REYNALDO Y. RICO,
 CRISOSTOMO M. DIANA,
 LEONILO H. GALAN, ALFREDO
 V. ACAS, DIOGENES B.
 LAORDEN, ROMY A.
 MANANQUIL, POLICARPIO R.
 BORJA, GABRIEL B. DIEZ,
 CONCORDIO D. OCLARIT,
 VENANCIO S. BASTIDA,
 ALFREDO L. MORALES,
 BIBIANO M. PANUDA,
 CIPRIANO V. ABAT, COMWELL
 R. LAYAGUIN, MUNDA P.
 CONOIMON, MAXIMO J.
 GAGABE, VICTOR D. SINGSON,
 OSCAR G. MARTINEZ,
 RODRIGO G. PATRIS, SR.,
 EUTEMIO C. ESTOSE, JETO B.
 LABAJO, SILVESTRE D.
 EDILLON, LEOPOLDO D.
 ACEBEDO, EDUARDO B.
 ARCAMO, ARNOLD S. BASTIDA
 and VICENTE G. RIVAS,
 Petitioners,**

- versus -

**PILIPINAS SHELL PETROLEUM
 CORPORATION and BANCO DE
 ORO UNIBANK,
 Respondents.**

Promulgated:

February 6, 2017



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DECISION

REYES, J.:

This resolves the consolidated petitions for review on *certiorari*, docketed as G.R. No. 200749 and G.R. No. 208725, filed by the petitioners to assail the rulings of the Court of Appeals (CA) in CA-G.R. SP No. 114420 and CA-G.R. SP No. 120638, respectively.

G.R. No. 200749 was filed by its petitioners against Pilipinas Shell Petroleum Corporation (PSPC). Particularly assailed in the petition are the CA Decision¹ dated January 31, 2011 and Resolution² dated February 3, 2012 in CA-G.R. SP No. 114420, in relation to the CA's reversal and setting aside of the Order³ dated June 8, 2010 rendered by the Regional Trial Court (RTC) of Makati City, Branch 62, which granted an **execution pending appeal** against the injunction bonds posted by PSPC in Civil Case No. 09-749.

G.R. No. 208725 was filed by its petitioners against respondents PSPC and Banco de Oro Unibank (BDO) to assail the CA Decision⁴ dated August 31, 2012 and Resolution⁵ dated August 8, 2013 in CA-G.R. SP No. 120638. The CA reversed *via* the challenged issuances the RTC Makati, Branch 59's Orders dated January 31, 2011,⁶ May 27, 2011,⁷ July 21, 2011,⁸ October 5, 2011⁹ and November 15, 2011¹⁰ in Civil Case No. 09-941. Essentially, the RTC orders allowed the petitioners' **intervention** in the civil case and then eventually ordered the complaint's dismissal.

The Facts

Civil Case No. 09-749 and Civil Case No. 09-941, both instituted by PSPC with the RTC Makati, are offshoots of Civil Case No. 95-45, which is a complaint¹¹ for damages filed in 1996 with the RTC of Panabo City, Davao Del Norte, Branch 4 by 1,843 plaintiffs¹² (plaintiffs) that included herein petitioners, against Shell Oil Company (Shell Oil), among several

¹ Penned by Associate Justice Rosmari D. Carandang, with Associate Justices Ramon R. Garcia and Manuel M. Barrios concurring; *rollo* (G.R. No. 200749), Vol. I, pp. 105-124.

² *Id.* at 158-172.

³ Issued by Judge Selma Palacio Alaras; *rollo* (G.R. No. 200749), Vol. III, pp. 1151-1156.

⁴ Penned by Associate Justice Noel G. Tijam, with Associate Justices Romeo F. Barza and Edwin D. Sorongon concurring; *rollo* (G.R. No. 208725), Vol. I, pp. 70-110.

⁵ *Id.* at 130-133.

⁶ *Id.* at 134.

⁷ *Id.* at 135.

⁸ *Id.* at 136-138.

⁹ *Id.* at 139-144.

¹⁰ *Id.* at 145.

¹¹ *Id.* at 224-269.

¹² *Id.* at 238-269.

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other defendants.¹³ The defendants in Civil Case No. 95-45 were all foreign corporations that manufactured, sold, distributed, used and/or made available in commerce nematocides against the parasite nematode prevalent in banana plantations. These nematocides contained the chemical *dibromochloropropane* (DBCP). The plaintiffs identified themselves as a group of banana plantation workers who were exposed to DBCP, which caused their sterility and other serious and permanent health injuries.¹⁴

During the pendency of Civil Case No. 95-45, Shell Oil entered into a compromise agreement¹⁵ with its claimants for a total consideration of US\$17 Million, a copy of which was submitted for approval by Shell Oil to RTC Panabo City. The copy submitted to the court did not bear the agreement's exhibits which, according to Shell Oil, indicated the list of 26,328 "worldwide plaintiffs" intended to be covered by the compromise.¹⁶ The agreement, sans the list, was approved by RTC Panabo City in its Omnibus Order dated December 20, 2002.¹⁷ In view of the compromise, the complaint against Shell Oil was dismissed in an Order¹⁸ dated March 24, 2003.

Civil Case No. 95-45 was later transferred to the RTC of Davao City, Branch 14. The plaintiffs again sought recourse from the RTC Davao City, *via* a Motion for Execution (Re: Enforcement of Judgment Based on Compromise Agreement between plaintiffs and Shell Oil), after Shell Oil allegedly failed to fully satisfy its obligations to them under the compromise agreement. For its defense, Shell Oil argued that it had fully complied with the terms of the compromise agreement. The approved compromise and amount stated therein covered 26,328 agricultural workers from across the globe who filed various cases against it and not just the 1,843 plaintiffs in Civil Case No. 95-45. When it resolved the motion, the RTC Davao City ruled in favor of the plaintiffs and thus issued the Order¹⁹ dated July 17, 2009 that directed the issuance of a writ of execution to be enforced against Shell Oil, its subsidiaries, affiliates, controlled and related entities, successors or assigns. The order's dispositive portion reads:

WHEREFORE, and in view of all the foregoing, let Writ of Execution issue based on the Compromise Agreement between the herein plaintiffs and the defendant [Shell Oil] dated March 15, 2007 – to be **ENFORCED** as well, on the defendant [Shell Oil's] subsidiaries, affiliates, controlled and related entities, successors or assigns pursuant to the common provision under Clause 28 of the said 1997 Compromise

¹³ Other defendants were Dow Chemical Company, Occidental Chemical Corporation, Standard Fruit Company, Chiquita Brands, Inc., Chiquita Brands International, Inc., Del Monte Fresh Produce, N.A. and Del Monte Tropical Fruit Co.

¹⁴ *Rollo* (G.R. No. 208725), Vol. I, pp. 230-231.

¹⁵ Compromise Settlement, Indemnity and Hold Harmless Agreement; *id.* at 270-287.

¹⁶ *Id.* at 304.

¹⁷ *Id.* at 288-290.

¹⁸ *Id.* at 288-296.

¹⁹ *Rollo* (G.R. No. 200749), Vol. I, pp. 343-345.

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Agreement which are doing business in the Philippines or registered in the Securities and Exchange Commission.

SO ORDERED.²⁰

Although not a defendant in Civil Case No. 95-45, PSPC was brought into the case when the plaintiffs filed with the RTC Davao City an *ex parte* motion alleging that PSPC was one of Shell Oil's "subsidiaries, affiliates, controlled and related entities or assigns," in relation to Clause 28 of the compromise agreement, which reads:

28. Affiliates and Successors

This Agreement and the rights, obligations, and covenants contained herein shall inure to the benefit of and be binding upon The Plaintiffs and Settling Defendants and their respective parent corporations, subsidiaries, affiliates, controlled and related entities, successors, and assigns.²¹

Acting on the motion, an Amended Order²² for the issuance of an alias writ of execution was issued by the RTC Davao City on August 11, 2009. Pursuant thereto, an Alias Writ of Execution²³ addressed to Sheriff Roberto C. Esguerra (Sheriff Esguerra), Sheriff IV of RTC Davao City, was issued on August 12, 2009, citing PSPC as one of the parties against whom the writ of execution may be implemented, to wit:

x x x **WHEREFORE**, and in view of all the foregoing, let Writ of Execution issued based on the Compromise Agreement between the herein plaintiffs and the defendant [SHELL OIL] dated MARCH 15, 2007 – to be **ENFORCED** as well, on subsidiaries, affiliates, controlled and related entities or assigns pursuant to the common provision under clause 28 of the said 1997 Compromise Agreement which are doing business in the Philippines or registered in the Securities and Exchange Commission, and which subsidiaries or entities as earlier stated, namely: [PSPC], SHELL GAS EASTERN, INC., SHELL GAS TRADING (Asia Pacific), INC., SHELL CHEMICALS PHILIPPINES INC., SHELL RENEWABLES PHILIPPINES CORP., THE SHELL COMPANY OF THE PHILIPPINES, LIMITED and SHELL PHILIPPINES EXPLORATION, B.V. (SPEX) in the total judgment debt of U.S. \$17 MILLION, are solidarily liable if in the event the principal defendant [SHELL OIL] shall fail to pay or becomes insolvent.²⁴ (Emphasis and underscoring in the original)

²⁰ Id. at 344.

²¹ *Rollo* (G.R. No. 208725), Vol. I, p. 279.

²² *Rollo* (G.R. No. 200749), Vol. I, pp. 416-420.

²³ Id. at 257-260.

²⁴ Id. at 258-259.

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Sheriff Esguerra sought to implement the alias writ against PSPC and, thus, issued a notice of garnishment²⁵ to cover the latter's accounts with BDO. Feeling aggrieved, PSPC thereafter filed with the RTC Makati two actions, specifically Civil Case No. 09-749 and Civil Case No. 09-941, on issues pertinent to the issuances and actions of RTC Davao City.

A. Petition for Prohibition against Sheriff Esguerra and the plaintiffs (Civil Case No. 09-749)

PSPC filed with the RTC Makati the petition²⁶ for prohibition with application for temporary restraining order (TRO) and writ of preliminary injunction (WPI) docketed as Civil Case No. 09-749 against Sheriff Esguerra and the plaintiffs, as it sought to prohibit the sheriff from enforcing the Alias Writ of Execution dated August 12, 2009 and the notice of garnishment that was issued pursuant thereto. PSPC insisted that it was never a party to Civil Case No. 95-45 and the compromise agreement between Shell Oil and the plaintiffs; thus, the enforcement of the alias writ of execution and the garnishment of its bank accounts were a violation of law and settled jurisprudence.

On August 26, 2009, Judge Alberico Umali (Judge Umali) of RTC Makati, Branch 138, granted PSPC's application for TRO.²⁷ Sheriff Esguerra and the plaintiffs were directed under the TRO to cease and desist from implementing the alias writ of execution and the notice of garnishment against PSPC.²⁸ PSPC posted an injunction bond issued by Malayan Insurance Company, Inc. (Malayan Insurance) amounting to ₱20 Million.

Judge Umali later inhibited from the case, which led to the petition's re-affle to RTC Makati, Branch 141 presided by Judge Mary Ann E. Corpus-Mañalac (Judge Mañalac). Pursuant to an Order²⁹ dated September 16, 2009 issued by Judge Mañalac, a WPI³⁰ was consequently issued on September 17, 2009. The order barred the garnishment of PSPC's account with BDO until further orders from the court, as it stated:

WHEREFORE, upon posting of an additional bond executed in favor of the respondents in the amount of Twenty Million Pesos (P20 million) to compensate for the damages they may sustain arising from the preliminary injunction should this court decide that the [PSPC] is not entitled thereto, let a preliminary writ of injunction be issued directing the respondents Sheriff Esguerra, Abenion, et. al., and/or

²⁵ Id. at 261.

²⁶ Id. at 233-256.

²⁷ Id. at 501-505.

²⁸ Id. at 506-507.

²⁹ Id. at 511-516.

³⁰ Id. at 517-518.

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their duly authorized representatives, agent or person acting in their behalf, to cease and desist from enforcing against [PSPC] the Alias Writ of Execution dated August 12, 2009 and Notices of Garnishment dated August 13, 2009 issued or served on Banco de Oro, Makati City Head Office and BPI-Intramuros Manila, until further orders from this court.

SO ORDERED.³¹

PSPC posted the required additional bond, also issued by Malayan Insurance, in the amount of ₱20 Million.³²

Following the inhibition of the judges who successively handled the case, the petition was eventually re-raffled to the sala of Judge Selma Palacio Alaras (Judge Alaras) of RTC Makati, Branch 62. On October 13, 2009, Judge Alaras issued an Order³³ dismissing PSPC's petition for prohibition and dissolved the injunctive writs that were previously issued. She explained that the remedy of prohibition is allowed only if there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law that is available to a petitioner. In this case, PSPC had simple and more than adequate remedies under Rule 39 of the Rules of Court, as a garnishee who claimed to be a stranger to the suit subject of the attachment.³⁴

On October 21, 2009, the plaintiffs filed a Motion to Call on the Bond and/or For Execution against the TRO and Injunction Bond³⁵ so that they could be allowed to recover on the injunction bonds for damages in the total amount of ₱40 Million. The motion was opposed by PSPC and Malayan Insurance, mainly on the ground that the plaintiffs did not suffer any compensable damage on account of the issuance of the injunctive writs. Furthermore, PSPC cited CA-G.R. SP No. 03101-MIN,³⁶ which was a petition for *certiorari* filed by Shell Oil with the CA-Mindanao Station, imputing grave abuse of discretion upon the RTC Davao City for its issuance of the writ of execution and alias writ of execution against Shell Oil, its subsidiaries, affiliates, controlled and related entities, successors or assigns. In the said case, the CA had issued a TRO enjoining the implementation of the execution orders that were issued in Civil Case No. 95-45.³⁷ On October 16, 2009, the CA-Mindanao Station also issued a Resolution³⁸ for the issuance of a WPI that would direct the RTC Davao City to cease and desist from enforcing the challenged writs against the deposits in Philippine banks of Shell Oil, its subsidiaries, affiliates,

³¹ Id. at 516.

³² Id. at 519.

³³ *Rollo* (G.R. No. 200749), Vol. III, pp. 1476-1480.

³⁴ Id. at 1478.

³⁵ *Rollo* (G.R. No. 200749), Vol. II, pp. 531-533.

³⁶ *Shell Oil Company v. Hon. George E. Omelio, as Presiding Judge of the Regional Trial Court of Davao City, Branch 14, Cecilio Abenion, et al.*

³⁷ *Rollo* (G.R. No. 200749), Vol. II, pp. 540-541.

³⁸ Id. at 520-530.

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controlled and related entities, successors or assigns, until further orders from the court.

In an Order³⁹ dated November 4, 2009, the RTC Makati resolved to grant the motion to call on the bond, but directed the plaintiffs to still submit evidence in support of the prayer for a judgment on the bond as regards their claim of damages, if warranted. It explained in part:

[PSPC] strongly advocates that [the plaintiffs] cannot go after the surety as it would circumvent the CA injunction issued against [the plaintiffs'] garnishing its accounts. This Court disagrees.

The injunction bond rule assures the enjoined party that it may readily collect damages in the event that it was wrongfully enjoined without further litigation and without regard to the possible insolvency of the applicant, and it provides the plaintiff with notice of the maximum extent of its potential liability. In fact, as may be seen from the document submitted by [PSPC] which purports to be a TRO from the CA effective for the period August 25, 2009 and until October 16, 2009 (the date when the Preliminary Injunction was issued mentioning [PSPC] as included from among those "subsidiaries, affiliates, controlled and related entities, successors or assigns" of [Shell Oil], the lone petitioner in CA-G.R. SP. No. 03101-MIN), contrary to [PSPC's] allegation, it was not included in the sixty (60)[-]day TRO previously issued by the CA. Thus, it is incumbent on the part of the [plaintiffs] to prove by their evidence the material and relevant assertion of facts justifying BDO's compliance with the court[-]issued garnishment even prior to the issuance by the CA of the broadened injunction on October 16, 2009 shielding [PSPC] from execution. The materiality of this justifies whether damage was indeed suffered by [the plaintiffs].

Also, [PSPC] argues that [the plaintiffs] are unentitled to recovery under the bond because there was no adjudication that [PSPC] was not entitled to the writ of injunction. This Court is not persuaded.

It is plain that the injunction should not have been entered in the first place and the motion which sought to vacate the said order should have been granted. This must be so if only had the rules prescribed under the pertinent provision on prohibition petition was followed to the letters as what this jurisdiction had opined in its last order. The Florida Supreme Court defines a "wrongfully issued" injunction as an injunction "that should not have been issued" and this precept squarely applies in this case.

Be that as it may, this jurisdiction is mindful that the necessary elements to be established in an application for damages are essentially factual: namely, the fact of damage or injury and the quantifiable amount of damages sustained, the maximum amount limit of which is that mentioned under the bond. Surely, such matters cannot be established on the mere say-so of the applicant, but require evidentiary support. On this point, this Court fully concurs with the observation of the [PSPC]. Thus, the [plaintiffs] are afforded the

³⁹ *Rollo* (G.R. No. 200749), Vol. III, pp. 1511-1515.

chance to adduce evidence to establish provable damage/s, if there be any occasioned by reason of the wrongful injunction.⁴⁰ (Citations omitted and emphasis ours)

After hearing the parties, the RTC Makati issued the Order⁴¹ dated April 30, 2010 indicating that the bonds posted by Malayan Insurance, totaling ₱40 Million, were to answer for the damages suffered by the plaintiffs as a result of the injunctive writs issued. In this case, the injunction prevented the sheriff from demanding the payment of the RTC Davao City's awards through PSPC's garnished deposit accounts with BDO. Thus, the decretal portion of the order reads:

WHEREFORE, judgment against the bond is hereby made ordering the surety [Malayan Insurance] to pay the [plaintiffs], through their authorized representative/s the sum in full or the total of forty million (Php 40,000,000.00) pesos representing its undertaking under MICO Bond No. 200902369 dated August 27, 2009 and MICO Bond No. 200902601 dated September 17, 2009. Likewise, respondents are awarded one hundred thousand (Php 100,000.00) pesos as and for attorneys' fees chargeable against the aforesaid undertaking.

SO ORDERED.⁴²

As the Order dated April 30, 2010 already awarded damages to the plaintiffs in the total amount of ₱40 Million, which was declared recoverable from the bonds, the plaintiffs immediately filed on May 4, 2010 a Motion for Execution.⁴³

In the meantime, PSPC filed on May 5, 2010 a Notice of Appeal⁴⁴ to assail the Order dated April 30, 2010, while Malayan Insurance filed a Motion for Reconsideration (MR)⁴⁵ with the RTC Makati.

In view of PSPC's filing of a notice of appeal, the plaintiffs filed on May 7, 2010 a Supplement to Motion for Execution,⁴⁶ asking for an execution pending appeal under Section 2 of Rule 39 of the Rules of Court. They cited the advanced age and failing health condition of several plaintiffs; some of them had even died. To support their supplemental motion, the plaintiffs later submitted to the trial court affidavits, medical certificates and certificates of death.⁴⁷

⁴⁰ Id. at 1514-1515.

⁴¹ *Rollo* (G.R. No. 200749), Vol. IV, pp. 1718-1726.

⁴² Id. at 1726.

⁴³ Id. at 1743-1746.

⁴⁴ Id. at 1727-1729.

⁴⁵ Id. at 1730-1742.

⁴⁶ Id. at 1747-1748.

⁴⁷ Id. at 1749-1751.

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On June 8, 2010, the RTC Makati issued an Order⁴⁸ that, *first*, gave due course to PSPC's notice of appeal and *second*, ordered the issuance of a writ of execution under Section 2 of Rule 39 of the Rules of Court on executions pending appeal. The dispositive portion of the order reads:

WHEREFORE, let Writ of Execution **ISSUE** commanding the Sheriff of this Court to satisfy [the plaintiffs] or through their authorized representative/s the total sum of forty million (Php 40,000,000.00) pesos representing Malayan Surety Co., Inc.'s undertaking under MICO Bond No. 200902369 and MICO Bond No. 200902601 dated August 27, 2009 [and] September 17, 2009, respectively.

Send this Order as well as a copy of the Writ of Execution [to] the Office of the Clerk of Court, [RTC Makati], and other stations in the National Capital Judicial Region, the Office of the Court Administrator, Supreme Court of the Philippines and the Insurance Commission for their reference.

Notify both the [PSPC] and the [Malayan Insurance.]

SO ORDERED.⁴⁹

The corresponding Writ of Execution (pending appeal),⁵⁰ addressed to Sheriff Rey Magsajo (Sheriff Magsajo), was issued by the RTC Makati on June 9, 2010. Pursuant thereto, Sheriff Magsajo issued a Notice of Demand to Pay⁵¹ upon Malayan Insurance. Deposits of Malayan Insurance in various bank accounts were later garnished.⁵²

Feeling aggrieved, PSPC filed on June 15, 2010 with the CA a Petition for *Certiorari* (With Prayer for Issuance of TRO and WPI),⁵³ docketed as CA-G.R. SP No. 114420, which sought to set aside the RTC Makati's Order dated June 8, 2010 and Writ of Execution dated June 9, 2010. It contended that the RTC Makati committed grave abuse of discretion in issuing the order and writ on the following grounds: *first*, Malayan Insurance's MR of the RTC Makati's Order dated April 30, 2010 was still pending resolution; *second*, the RTC was divested of any jurisdiction to allow an execution pending appeal when PSPC's notice of appeal was perfected; and *third*, the plaintiffs' motion for execution was based on Section 1 of Rule 39 of the Rules of Court and was not a motion for execution pending appeal. Even granting that the motion for execution prayed for an execution pending appeal, there were no serious and compelling reasons to support the relief prayed for.

⁴⁸ *Rollo* (G.R. No. 200749), Vol. III, pp. 1151-1156.

⁴⁹ *Id.* at 1156.

⁵⁰ *Id.* at 1157-1158.

⁵¹ *Rollo* (G.R. No. 200749), Vol. IV, p. 1766.

⁵² *Id.* at 1767-1771; Notices of Garnishment sent to RCBC Head Office, RCBC Binondo, Security Bank Head Office and all Metro Manila branches, Bank of the Philippine Islands Head Office and all Metro Manila branches, Chinabank Head Office and all Metro Manila branches.

⁵³ *Rollo* (G.R. No. 200749), Vol. III, pp. 1098-1143.

Meanwhile, the RTC Makati issued several orders that still sustained the claim of the plaintiffs and supported an execution of its awards, particularly the Order⁵⁴ dated June 15, 2010, Order⁵⁵ dated June 16, 2010, and the Order of Delivery of Money⁵⁶ issued by Sheriff Magsajo on June 16, 2010 and addressed to Rizal Commercial Banking Corporation.

On June 22, 2010, the CA issued a Resolution⁵⁷ for the issuance of TRO against the enforcement of the RTC Makati's Order dated June 8, 2010 and the writ of execution that was issued pursuant thereto. On August 24, 2010, the CA issued another Resolution⁵⁸ granting PSPC's application for a WPI.

On January 31, 2011, after an exchange of pleadings between the parties, the CA rendered the Decision⁵⁹ granting PSPC's petition. The CA decision provided that an execution pending appeal was unjustified under the circumstances. At the time the RTC Makati issued the order of execution, Malayan Insurance's MR remained unresolved. An execution pending appeal is allowed only when the period to appeal has commenced. The fact that the motion to reconsider was as yet unresolved prevented the running of the period within which a party could appeal from the trial court's decision, and rendered an order allowing execution pending appeal premature.⁶⁰ In addition to this, the CA-Mindanao Station, in a WPI issued on October 16, 2009 in CA-G.R. SP No. 03101-MIN, had expressly enjoined an execution against PSPC under the RTC Davao City judgment. CA-G.R. SP No. 03101-MIN was filed by Shell Oil and PSPC to assail the writ of execution and alias writ of execution previously issued by the RTC Davao City.

Hence, the CA reversed the RTC Makati's Order dated June 8, 2010 and the writ of execution that was issued pursuant thereto. The dispositive portion of the CA Decision dated January 31, 2011 reads:

WHEREFORE, the petition is **GRANTED**. The assailed June 8, 2010 Order and the Writ of Execution issued pursuant thereto are hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.⁶¹

⁵⁴ *Rollo* (G.R. No. 200749), Vol. IV, pp. 1846-1850.

⁵⁵ *Id.* at 1859.

⁵⁶ *Id.* at 1860.

⁵⁷ *Id.* at 1876-1885.

⁵⁸ *Id.* at 2000-2009.

⁵⁹ *Rollo* (G.R. No. 200749), Vol. I, pp. 105-124.

⁶⁰ *Id.* at 112-114.

⁶¹ *Id.* at 123.

The MR⁶² filed by the plaintiffs was denied by the CA in a Resolution⁶³ dated February 3, 2012, prompting the filing of the present petition for review on *certiorari*⁶⁴ docketed as **G.R. No. 200749**. Only 63⁶⁵ of the 1,843 plaintiffs are petitioners in this case.

B. Complaint for Injunction against BDO and John Doe (Civil Case No. 09-941)

On October 16, 2009, PSPC also filed with the RTC Makati a Complaint for Injunction with application for TRO and/or WPI,⁶⁶ docketed as Civil Case No. 09-941 and raffled to RTC Makati, Branch 59, against BDO and John Doe. It sought to prevent BDO from releasing its funds to Sheriff Esguerra and his deputies, Sheriff Villamor Villegas and Sheriff Rommel Ignacio, or any other person who might attempt to withdraw the funds. PSPC insisted that its liability for the claims against Shell Oil had not yet been determined with finality.

On January 11, 2010, the RTC Makati issued a WPI in the case.⁶⁷ Some of the plaintiffs⁶⁸ in Civil Case No. 95-45 later moved to intervene as John Doe Intervenors, claiming to be the parties who would benefit from the release of the garnished BDO deposits.⁶⁹ The intervention was opposed by PSPC and BDO.⁷⁰

In an Order⁷¹ dated January 31, 2011, the RTC Makati granted the motion for intervention. PSPC moved to reconsider,⁷² but this was denied by the trial court on May 27, 2011.⁷³

⁶² Id. at 125-146.

⁶³ Id. at 158-172.

⁶⁴ Id. at 14-99.

⁶⁵ Strictly, only 62 petitioners considering that no Special Power of Attorney executed by Cecilio Abenion, for the purpose of the filing of the petition, forms part of the records.

⁶⁶ *Rollo* (G.R. No. 208725), Vol. III, pp. 1209-1227.

⁶⁷ *Rollo* (G.R. No. 208725), Vol. IV, pp. 1567-1579; Order dated January 11, 2010 was issued by Presiding Judge Jenny Lind R. Aldecoa-Delorino.

⁶⁸ Domingo Escobar, Wilfredo A. Pombo, Celso T. Tabile, Carlos L. Lapinid, Eddie D. Pulgo, Felix E. Grecia, Juan Valleser, Aniano J. Dejesica, Jr., Antonio Medina, Eleuterio H. Del Rosario, Sr., Ramon Liper, Doroteo Llanza, Dominaador E. Prieto, Saturnino O. Becera, Alejandro S. Nabong, Teofilo C. Libre, Juanito P. Godoy, Candelario C. Casimsiman, Carlos P. Ampilan, Carmencito Capuyan, Fortunato V. Amistoso, Fortino L. Berou, Leo C. Molina, Jimmy L. Mangcao, Godofrecio L. Lasquite, Sigfredo M. Cuanan, Johnny F. Peralta, Andres P. Atchivara, Jimmy S. Sale, Julito I. Junasa, Rodrigo O. Pinas, Roel B. Pales, Ruben T. Pales, Jr., Raymundo N. Montero, Romeo C. Pansoy, Segundo S. Polentinos.

⁶⁹ *Rollo* (G.R. No. 208725), Vol. IV, pp. 1583-1613.

⁷⁰ Id. at 1614-1624, 1636-1642.

⁷¹ Issued by Presiding Judge Winlove M. Dumayas; *rollo* (G.R. No. 208725), Vol. I, p. 134.

⁷² *Rollo* (G.R. No. 208725), Vol. II, pp. 936-983.

⁷³ *Rollo* (G.R. No. 208725), Vol. I, p. 135.

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Thus, PSPC filed with the CA the petition for *certiorari*⁷⁴ docketed as CA-G.R. SP No. 120638. It insisted that the RTC Makati committed grave abuse of discretion, amounting to lack or excess of jurisdiction, in allowing the intervention despite the CA-Mindanao Station's nullification, *via* a Decision dated March 15, 2011 in CA-G.R. SP No. 03101-MIN, of the RTC Davao City's Amended Order dated August 11, 2009 and Alias Writ of Execution upon which the intervention was based.⁷⁵

Subsequent issuances of the RTC Makati prompted PSPC to file a Supplemental Petition to include the following orders as subjects of the petition: (1) the Order⁷⁶ dated July 21, 2011 dismissing Civil Case No. 09-941 on the grounds of forum shopping and *res judicata*; (2) the Order⁷⁷ dated October 5, 2011 granting John Doe Intervenors' Motion to Call on the Bond and/or for Execution Against Injunction Bond Pending Appeal; and (3) the Order⁷⁸ dated November 15, 2011 denying PSPC's MR of the Order dated October 5, 2011.⁷⁹

On August 31, 2012, the CA rendered its Decision⁸⁰ granting the petition. The dispositive portion of the CA decision reads:

WHEREFORE, the *Petition* and the *Supplemental Petition* are **GRANTED**. The assailed *Orders*, dated January 31, 2011, May 27, 2011, July 21, 2011, October 5, 2011, and November 15, 2011, all issued by the [RTC] of Makati City, Branch 59 in Civil Case No. 09-941 are hereby **ANNULLED** and **SET ASIDE**.

Consequently, the following are all **DISALLOWED** for utter lack of basis:

- 1) the intervention of Private Respondents "John Does";
- 2) the dismissal of Civil Case No. 09-941;
- 3) the dissolution of the preliminary injunction issued therein(;) and
- 4) the execution against the bond.

SO ORDERED.⁸¹

⁷⁴ Id. at 146-185.

⁷⁵ Id. at 160-164.

⁷⁶ Id. at 136-138.

⁷⁷ Id. at 139-144.

⁷⁸ Id. at 145.

⁷⁹ Id. at 78.

⁸⁰ Id. at 70-110.

⁸¹ Id. at 109-110.

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An MR⁸² of the CA decision was denied in a Resolution⁸³ dated August 8, 2013. Hence, the petition for review on *certiorari*⁸⁴ docketed as **G.R. No. 208725** still filed by a group of plaintiffs in Civil Case No. 95-45, particularly 51⁸⁵ herein petitioners.

The Present Petitions

The petitioners in **G.R. No. 200749** cite the following arguments in support of their petition:

I.

THE CA GRAVELY ERRED IN FAILING TO DISMISS OUTRIGHT THE PETITION FOR *CERTIORARI* OF PSPC DESPITE ITS FAILURE TO FILE AN MR OF THE ASSAILED ORDER DATED JUNE 8, 2010 AND THE WRIT OF EXECUTION DATED JUNE 9, 2010.

II.

THE CA GRAVELY ERRED IN RULING IN FAVOR OF PSPC DESPITE ITS WILLFUL AND DELIBERATE ACT OF FORUM SHOPPING WHICH IS PUNISHABLE BY THE SUMMARY DISMISSAL OF ITS PETITION FOR *CERTIORARI*.

III.

THE CA GRAVELY ERRED IN FINDING THAT THE PETITIONERS' INSISTENCE TO IMPLEMENT THE WRIT OF EXECUTION PENDING APPEAL IS ACTUALLY AN ATTEMPT ON THEIR PART TO INDIRECTLY DO WHAT THEY CANNOT DO DIRECTLY IS DEVOID OF LEGAL AND FACTUAL BASIS AS SHOWN IN THE ASSAILED ORDER DATED APRIL 30, 2010.

IV.

THE CA GRAVELY ERRED IN REFUSING OR FAILING TO DISMISS PSPC'S PETITION FOR *CERTIORARI* DESPITE ITS MOOTNESS AND ITS BEING DEVOID OF ANY PRACTICAL LEGAL EFFECT.

⁸² Id. at 111-117.

⁸³ Id. at 130-133.

⁸⁴ Id. at 15-69.

⁸⁵ Strictly, only 50 petitioners considering that no Special Power of Attorney executed by Cecilio Abenion, for the purpose of the filing of the petition, forms part of the records.

V.

THE CA GRAVELY ERRED IN ITS FINDING THAT THE PETITIONERS ALLEGEDLY FAILED TO PROVE WITH REASONABLE DEGREE OF CERTAINTY THE FACT OF DAMAGES SUFFERED BY THEM BY REASON OF THE ISSUANCES OF THE INJUNCTION.

VI.

THE CA GRAVELY ERRED IN FINDING THAT MALAYAN INSURANCE WAS NOT HEARD, ON THE MATTER OF ITS SOLIDARY LIABILITY THROUGH THE PROPER AND TIMELY RESOLUTION OF ITS MR BEFORE THE EXECUTION OF JUDGMENT ON THE INJUNCTION BOND.

VII.

THE CA GRAVELY ERRED IN DENYING THE MOTION FOR INHIBITION FILED BY THE PETITIONERS EVEN IF THE *PONENTE* UNMERITORIOUSLY TILTED THE SEALS OF JUSTICE AGAINST THEM BY NOT DISMISSING OUTRIGHT THEIR PETITION FOR *CERTIORARI*.⁸⁶

Based on the foregoing, the petition raises procedural and substantive issues. As to procedure, the petitioners maintain that the CA should have dismissed CA-G.R. SP No. 114420 on the grounds of forum shopping, mootness and PSPC's failure to file an MR of the RTC Makati's Order dated June 8, 2010 and writ of execution dated June 9, 2010.

As regards the substantive issue on entitlement to the injunction bonds that were posted with the CA, the petitioners insist that they should have been allowed by the appellate court to claim on the bonds pending the appeal, after they have proved their right thereto and the damages they have suffered by reason of the injunctive writs.

PSPC opposes the petition.⁸⁷ It insists that the CA ruled correctly in its favor, as it reiterates the grounds that were relied upon by the appellate court in arriving at the challenged decision.

⁸⁶ *Rollo* (G.R. No. 200749), Vol. I, pp. 42-43.

⁸⁷ *Rollo* (G.R. No. 200749), Vol. III, pp. 1022-1093.

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In **G.R. No. 208725**, the petitioners raise the following arguments:

I.

THE CA SERIOUSLY ERRED IN FAILING TO DISMISS PSPC'S PETITION FOR *CERTIORARI* EVEN IF IT HAS BECOME MOOT, ACADEMIC AND DEVOID OF ANY PRACTICAL LEGAL EFFECT.

II.

THE CA GRAVELY ERRED IN RULING THAT THE TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ALLOWING THE INTERVENTION OF THE PETITIONERS IN CIVIL CASE NO. 09-941 BEFORE THE RTC OF MAKATI, BRANCH 59.

III.


THE CA SERIOUSLY ERRED IN GIVING CREDENCE TO PSPC'S CLAIM THAT THE INTERVENTION OF THE PETITIONERS IS IN DIRECT COLLISION WITH THE RULING OF THE CA SINCE THEY INVOLVED DIFFERENT CLAIMS.

IV.

THE CA GRAVELY ERRED WHEN IT RULED THAT THE PETITIONERS HAVE LOST THEIR LEGAL INTEREST IN THE MATTER IN LITIGATION, CONSIDERING THAT ORDERS OF THE DAVAO COURT, UPON WHICH THEY ANCHORED THEIR INTERVENTION IN CIVIL CASE NO. 09-941, HAVE NOT BEEN NULLIFIED BY FINAL JUDGMENT BY A SUPERIOR COURT.

V.

THE CA SERIOUSLY ERRED IN FINDING THAT THE PETITIONERS ARE FULLY PROTECTED IN A SEPARATE PROCEEDING IN WHICH PSPC IS ALSO ASSAILING THE SAME ORDERS OF THE DAVAO COURT, HENCE, THEY HAVE NO PROTECTION IN CIVIL CASE NO. 09-941 AS PSPC IS SIMILARLY SEEKING THE ANNULMENT OF THE ALIAS WRIT OF EXECUTION AND NOTICE OF GARNISHMENT.



VI.

THE CA GRAVELY ERRED IN RULING IN FAVOR OF PSPC DESPITE ITS WILLFUL AND DELIBERATE ACT OF FORUM SHOPPING WHICH IS PUNISHABLE BY THE SUMMARY DISMISSAL OF ITS PETITION FOR *CERTIORARI*.

VII.

THE CA GRAVELY ERRED IN ENTERTAINING THE SUPPLEMENTAL PETITION FILED BY PSPC WHICH IS A WRONG PROCEDURAL RECOURSE AS IT SHOULD HAVE FILED AN APPEAL AFTER THE DISMISSAL OF PSPC'S COMPLAINT IN CIVIL CASE NO. 09-941 PURSUANT TO THE FINAL ORDER DATED JULY 21, 2011 AS A RESULT OF THE DENIAL OF ITS MR AS SHOWN IN THE ORDER DATED NOVEMBER 15, 2011.⁸⁸

From the arguments, the petition also raises procedural and substantive issues. On the issue of procedure, the petitioners again raise the issues of mootness and forum shopping. They also contend that after the RTC Makati dismissed Civil Case No. 09-941, PSPC should have filed an appeal, instead of a mere supplemental petition for *certiorari*. The substantive issue concerns the petitioners' assertion that they should have been allowed to intervene in Civil Case No. 09-941.

Both the PSPC and BDO seek the dismissal of the petition. In its Comment,⁸⁹ BDO insists that the petitioners lack the legal interest to intervene in Civil Case No. 09-941. PSPC, on the other hand, contends that the injunction case it filed against BDO arose from a depositor-depositary relationship, to which the petitioners are not privy. Moreover, PSPC reiterates the fact that the RTC Davao City's Amended Order dated August 11, 2009 and Alias Writ of Execution dated August 12, 2009 have been nullified by the CA-Mindanao Station.⁹⁰

Ruling of the Court

The Court denies the petitions for lack of merit.

⁸⁸ *Rollo* (G.R. No. 208725), Vol. I, pp. 31-32.

⁸⁹ *Rollo* (G.R. No. 208725), Vol. II, pp. 823-834.

⁹⁰ *Id.* at 835-885.

G.R. No. 200749***Procedural Issues***

Forum shopping¹ is among the procedural issues that are being raised by the petitioners in G.R. No. 200749. They contend that PSPC violated the rule against forum shopping when it resorted to the following remedies to assail the RTC Makati's rulings in Civil Case No. 09-749: *first*, the petition for *certiorari* docketed as CA-G.R. SP No. 114420; and, *second*, the appeal from the RTC Makati's Order dated April 30, 2010.

In *Philippine Postal Corporation v. Court of Appeals, et al.*,⁹¹ the Court explained settled parameters in determining whether the rule against forum shopping is breached, particularly:

Forum shopping consists of filing multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.

There is forum shopping where there exist: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such that any judgment *rendered in the pending case, regardless of which party is successful would amount to res judicata.*⁹² (Italics in the original)

Applying the foregoing, the petitioners' claim of forum shopping necessarily fails.

Given the nature of the petition for *certiorari* and the challenged appeal, it is evident that the issues involved and reliefs sought by PSPC in the two actions were distinct. Even the RTC orders being challenged in the two cases were different. While the two actions may be related as they arose from the same prohibition case, the appeal was intended to assail the judgment on the injunction bonds, while the petition for *certiorari* was filed specifically to challenge only the ruling that granted an execution pending appeal.

Clearly, a judgment in one action would not necessarily affect the other. A nullification of the ruling to allow an execution pending appeal, for example, would not necessarily negate the right of the petitioners to still eventually claim for damages under the injunction bonds. This is consistent

⁹¹ 722 Phil. 860 (2013).

⁹² Id. at 876, citing *Spouses Zosa v. Judge Estrella, et al.*, 593 Phil. 71, 77 (2008).

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with the Court's ruling in *Manacop v. Equitable PCIBank*,⁹³ as it differentiated between the two actions and the implication of the pendency of both on the prohibition against forum shopping. The Court explained:

Certiorari lies against an order granting execution pending appeal where the same is not founded upon good reasons. The fact that the losing party had also appealed from the judgment does not bar the *certiorari* proceedings, as the appeal could not be an adequate remedy from such premature execution. Additionally, there is no forum-shopping where in one petition a party questions the order granting the motion for execution pending appeal and at the same time questions the decision on the merits in a regular appeal before the appellate court. After all, the merits of the main case are not to be determined in a petition questioning execution pending appeal and vice versa.⁹⁴ (Citation omitted)

Even PSPC's successive filing with the RTC Makati of Civil Case No. 09-941 and Civil Case No. 09-749 cannot validly support the petitioners' plea for dismissal on the ground of forum shopping. It is worthy to note that the issue was not raised by the petitioners in their Comment⁹⁵ they filed in CA-G.R. SP No. 114420, but was cited for the first time in their MR of the CA decision that already resolved the main petition.⁹⁶ In any case, as will be further discussed by the Court in relation to its ruling in G.R. No. 208725, the petitioners lacked the required legal interest to intervene in Civil Case No. 09-941. This circumstance even prompted the CA to reverse the RTC Makati's dismissal of Civil Case No. 09-941 on the ground of forum shopping because inevitably, their lack of interest barred them from claiming any relief from the said action. The foregoing only signifies that the two actions called for a resolution of distinct issues, especially as there was no identity of parties involved.

The subsequent nullification by the CA of the RTC Makati's rulings in Civil Case No. 09-941, including the finding of forum shopping and consequent order for the dismissal of the case, likewise negates the petitioners' argument that its similar claim of forum shopping should have been sustained in Civil Case No. 09-749, or that the petition docketed as CA-G.R. SP No. 114420 should have been similarly dismissed on the ground of mootness. Even before the finding of forum shopping by the RTC Makati, Branch 59, in Civil Case No 09-941 was nullified by the CA, the ruling did not necessarily carry with it the dismissal of Civil Case No. 09-749 and actions that arose therefrom, because the disposition thereof should ultimately proceed from the courts handling them.

⁹³ 505 Phil. 361 (2005).

⁹⁴ Id. at 380.

⁹⁵ *Rollo* (G.R. No. 200749), Vol. II, pp. 877-902.

⁹⁶ See also *rollo* (G.R. No. 200749), Vol. I, p. 162.



Anent the PSPC's act of immediately filing with the CA a petition for *certiorari*, instead of first filing an MR to challenge the execution pending appeal, the CA aptly explained that the issue could not have been validly raised for the first time by the petitioners in their MR.⁹⁷ The appellate court correctly reasoned in its resolution:

It is a fundamental rule of procedure that higher courts are precluded from entertaining matters not alleged in the pleadings but ventilated for the first time only in [an MR]. We are, therefore, precluded from entertaining the first argument of private respondents since it is only now in their [MR] that they are questioning [PSPC's] failure to file [an MR].⁹⁸ (Citation omitted)

In any case, even granting that the issue was timely raised by the petitioners in their Comment, jurisprudence provides the settled exceptions to the general rule that sets as a condition the filing of an MR before resorting to a special civil action for *certiorari*. Among these exceptions are the following:

- (a) where the order is a patent nullity, as where the court *a quo* has no jurisdiction;
- (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
- (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable;
- (d) where, under the circumstances, [an MR] would be useless;
- (e) where petitioner was deprived of due process and there is extreme urgency for relief;
- (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
- (g) where the proceedings in the lower court are a nullity for lack of due process;
- (h) where the proceedings was *ex parte* or in which the petitioner had no opportunity to object; and
- (i) where the issue raised is one purely of law or public interest is involved.⁹⁹

PSPC already presented in the CA petition its justification for the failure to first file an MR, contending that a motion to reconsider could not be deemed a plain and speedy remedy to challenge the order for execution pending appeal. Specifically, PSPC explained that its case was covered by

⁹⁷ Id. at 160.

⁹⁸ Id.

⁹⁹ *Cervantes v. Court of Appeals*, 512 Phil. 210, 216-217 (2005), citing *Acance v. Court of Appeals*, 493 Phil. 676, 684 (2005).

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the aforequoted exceptions under settled jurisprudence, particularly items (b), (c), (d), (e) and (g).¹⁰⁰

Given the circumstances, PSPC's immediate filing of the petition for *certiorari* was indeed justified. Considering that the subject of the petition was already an order and writ that permitted an immediate execution of the monetary award, the urgency and necessity for a prompt resolution of its arguments were clear. There is no cogent reason for the Court to disturb the CA's ruling that "the patent nullity of the assailed Order, the uselessness of an MR, the urgent necessity of resolving questions to avoid prejudice caused by delay, deprivation of due process and extreme urgency for relief" justified PSPC's action.¹⁰¹

Execution Pending Appeal

The main issue in G.R. No. 200749 concerns the RTC's order that allowed an execution, pending appeal, of the ₱40 Million award that it granted to the petitioners. It must be emphasized though that the Court's review of the issue precludes a re-examination of the propriety or legality of the ₱40 Million damages that was declared chargeable under the injunction bonds. Considering that an appeal from the order granting the award was filed by PSPC, the merits thereof had to be threshed out in the said appeal.

It bears emphasis that an execution pending appeal is deemed an exception to the general rule, which allows an execution as a matter of right only in any of the following instances: (a) when the judgment has become final and executory; (b) when the judgment debtor has renounced or waived his right of appeal; (c) when the period for appeal has lapsed without an appeal having been filed; or (d) when, having been filed, the appeal has been resolved and the records of the case have been returned to the court of origin.¹⁰²

The Rules of Court allows executions pending appeal under the conditions set forth in Section 2 of Rule 39 thereof, which reads:

Sec. 2. Discretionary execution. –

(a) *Execution of a judgment or final order pending appeal.* – On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion,

¹⁰⁰ *Rollo* (G.R. No. 200749), Vol. I, pp. 177-180.

¹⁰¹ *Id.* at 160.

¹⁰² *Florendo, et al. v. Paramount Insurance Corp.*, 624 Phil. 373, 381 (2010).

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order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

x x x x

Corollary thereto, jurisprudence provides rules that are generally applied in resolving litigants' pleas for executions pending appeal, specifically:

The general rule is that only judgments which have become final and executory may be executed. However, discretionary execution of appealed judgments may be allowed under Section 2 (a) of Rule 39 of the Revised Rules of Civil Procedure upon concurrence of the following requisites: (a) there must be a motion by the prevailing party with notice to the adverse party; (b) there must be a good reason for execution pending appeal; and (c) the good reason must be stated in a special order. **The yardstick remains the presence or the absence of good reasons consisting of exceptional circumstances of such urgency as to outweigh the injury or damage that the losing party may suffer, should the appealed judgment be reversed later. Since the execution of a judgment pending appeal is an exception to the general rule, the existence of good reasons is essential.**¹⁰³ (Citations omitted and emphasis ours)

Applying the foregoing principles, the Court sustains the CA's nullification of the RTC Makati's order that granted the petitioners' motion for execution pending appeal.

The Court recaps the incidents prior to the trial court's resolve to grant the challenged execution pending appeal. The RTC Makati dismissed Civil Case No. 09-749 on October 13, 2009. On November 4, 2009, the trial court granted the petitioners' motion to call on the injunction bonds, subject to the presentation of evidence to establish the damages that were suffered by the claimants. Thereafter, in an Order dated April 30, 2010, the trial court declared the petitioners to be entitled to the full amount of ₱40 Million injunction bonds, which prompted the petitioners to immediately file on May 4, 2010 a motion for execution. Malayan Insurance filed an MR on May 19, 2010, while PSPC filed a notice of appeal on May 5, 2010. Given PSPC's appeal, the petitioners opted to file a Supplement to Motion for Execution, so that they could be allowed an execution pending appeal under Section 2 of Rule 39 of the Rules of Court.

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Manacop v. Equitable PCIBank, supra note 93, at 381.

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It was such recourse by the petitioners, and the RTC Makati's grant thereof, that PSPC mainly challenged when it filed with the CA the petition for *certiorari* docketed as CA-G.R. SP No. 114420. Moreover, it argued that Malayan Insurance's MR was still unresolved at the time that the execution pending appeal was granted by the trial court.

It is clear from the antecedents that notwithstanding PSPC's filing of a notice of appeal, the RTC Makati still had the jurisdiction to act upon the motion for execution pending appeal, because the reglementary period for all the parties in the case to file an appeal from the Order dated April 30, 2010 had not yet lapsed. Malayan Insurance, in particular, could not have filed an appeal yet as its MR remained unresolved. This circumstance is material because PSPC argued before the RTC and CA that the trial court had already lost its jurisdiction to act on the petitioners' motion. Section 2 of Rule 39, however, allows a court to act upon a motion for execution pending appeal while it retains jurisdiction over the action. In relation to this, Section 9 of Rule 41 of the Rules of Court on appeals from the RTCs provides the rules on the perfection of appeals and loss of jurisdiction, particularly:

Sec. 9. Perfection of appeal; effect thereof. – A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

x x x x

In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

x x x x

In either case, prior to the transmittal of the original record or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with Section 2 of Rule 39, and allow withdrawal of the appeal.

As the Court nonetheless still affirms the CA's finding that the RTC Makati committed grave abuse of discretion in allowing execution pending appeal, it underscores the rule that an execution pending appeal must, at all times, be justified by good reasons stated in an order issued by the court. Pertinent thereto, the Court refers to the trial court's own grounds for the subject execution pending appeal, as cited in its Order dated June 8, 2010, to wit:

[P]rivate respondents advance x x x that execution can be had under Section 2 [of] Rule 39 of the Revised Rules of Court contending that the wrongfulness of the writ and the length of time respondents have been

deprived of their money by reason of the wrongful injunction justifies execution pending appeal. To bolster their claim, private respondents submitted affidavits with notarized medical certificates of several of the party respondents attesting to the fact that they are of advanced age and in failing health conditions. They also furnished this Court several death certificates in certified true copies attesting to the fact that some of the private respondents have not seen the fruits of their cause because of their demise.

x x x x

In this case, do good reasons exist to justify the grant of private respondents' motion for execution pending appeal? The answer is in the affirmative.

[PSPC] faults the assertion of the private respondents claiming that the persons who submitted their documents may not be representative of all respondents. Suffice to say that generally, the bond goes to the protection of all parties to the injunction suit who are restrained and damaged thereby, and they may enforce it. An injunction bond by its terms payable to the defendants in the suit creates a liability in favor of anyone of the defendants; the remedy is not confined to a liability running to all the defendants jointly. An injunction bond, though running to all the defendants, is an obligation to each one severally.

The Court finds the allegations of the private respondents meritorious. Inasmuch as some of the private respondents have failing health, of advanced age and in fact some of them have died even before the termination of the protracted case or cases that brought the instant case here, the Court is morally convinced that the demands of equity and justice would be best served if they will be permitted to enjoy part of the fruits of their cause, even at this juncture.¹⁰⁴ (Citations omitted and emphasis ours)

In now declaring that the execution pending appeal was unsupported by sufficient grounds, the Court restates the rule that the trial court's discretion in allowing execution pending appeal must be strictly construed.¹⁰⁵ Its grant must be firmly grounded on the existence of "good reasons," which consist of compelling circumstances that justify immediate execution lest the judgment becomes illusory. "The circumstances must be superior, outweighing the injury or damages that might result should the losing party secure a reversal of the judgment. Lesser reasons would make of execution pending appeal, instead of an instrument of solicitude and justice, a tool of oppression and inequity."¹⁰⁶

The sufficiency of "good reasons" depends upon the circumstances of the case and the parties thereto. Conditions that are personal to one party, for example, may be insufficient to justify an execution pending appeal that

¹⁰⁴ *Rollo* (G.R. No. 200749), Vol. III, pp. 1153-1156.

¹⁰⁵ *Florendo, et al. v. Paramount Insurance Corp.*, supra note 102.

¹⁰⁶ *Id.*

would affect all parties to the case and the property that is the subject thereof. Thus, in *Florendo, et al. v. Paramount Insurance Corp.*,¹⁰⁷ the Court ruled that the execution pending appeal, which was supposedly justified by the old age and life-threatening ailments of merely one of several parties to the case, was unsupported by special reasons. As the Court sustained the CA's reversal of the execution, it explained:

The Florendos point out that Rosario is already in her old age and suffers from life threatening ailments. But the trial court has allowed execution pending appeal for all of the Florendos, not just for Rosario whose share in the subject lands had not been established. No claim is made that the rest of the Florendos are old and ailing. Consequently, the execution pending appeal was indiscreet and too sweeping. All the lands could be sold for ₱42 million, the value mentioned in the petition, and distributed to all the Florendos for their enjoyment with no sufficient assurance that they all will and can return such sum in case the CA reverses, as it has in fact done, the RTC decision. Moreover, it is unclear how much of the proceeds of the sale of the lands Rosario needed for her old age.¹⁰⁸

Similarly, in the instant case, the RTC Makati's order of execution pending appeal was unsupported by sufficient grounds. The trial court solely harped on the health condition of some of the petitioners and the death of some claimants under the compromise agreements. While the private respondents named by PSPC in its petition for prohibition were "Abenion, et al.," referring to "the 1,843 listed plaintiffs in Civil Case No. 95-45,"¹⁰⁹ the RTC sought to justify an execution pending appeal by citing the following circumstances and evidence that affected a mere 23 claimants: (1) the affidavits with notarized medical certificates attesting to the fact of advanced age and failing conditions of only 8 claimants, particularly Andres P. Atchivara, Antonio M. Cabulang, Cecilio G. Flores, Benjamin R. Royo, Jimmy S. Sale, Ponciano T. Tinambacan, Rodrigo M. Serenado and Jose M. Serenado; and (2) the death certificates of 15 claimants, particularly Mario B. Abas, Generoso Y. Alas, Pastor C. Capuyan, Jr., Valentino E. Camporedondo, Leonardo S. Dayot, Virgilio O. Dela Cruz, Jarlen E. Jalalon, Francio L. Mahinay, Lorewto B. Maniquez, Glorioso P. Oclarit, Beddy R. Relux, Wilfredo S. Sabanal, Apolinario R. Villaver, Domingo R. Villaver and Patricio M. Villotes.¹¹⁰ These grounds on the failing health and death of some claimants were raised by the petitioners to support their Supplement to Motion for Execution, by which they alleged:

3. Consequently, private respondents who are too old and sickly, while others have died, are humbly seeking the execution of the judgment of award for damages recoverable from the temporary restraining order and injunctive bonds in the total amount of Php 40 million, which is an

¹⁰⁷ 624 Phil. 373 (2010).

¹⁰⁸ Id. at 381-382.

¹⁰⁹ *Rollo* (G.R. No. 200749), Vol. I, p. 236.

¹¹⁰ *Rollo* (G.R. No. 200749), Vol. III, p. 1154.

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adjunct to the October 13, 2009 order, pending appeal pursuant to Section 2, Rule 39 of the Rules of Court.

4. As stated above, private respondents are already of advance age and some of them are seriously ill and they may not be able to enjoy the award for damages as per order of April 30, 2010, if they will still wait for the outcome of the appeal.¹¹¹

The execution pending appeal, however, could not be justified by conditions that applied only to a mere few claimants. Jurisprudence precludes an execution pending appeal that is, as in this case, too sweeping and unfounded by the required urgency and compelling reasons that can justify it.

Besides this lack of good reasons to justify the execution pending appeal, the RTC Makati also erred in allowing the execution even when there was a pending MR of its Order dated April 30, 2010. When it explained that it still had the jurisdiction to act upon the motion for execution pending appeal, the trial court itself cited the pendency of Malayan Insurance's MR. Thus, it stated in its Order dated June 8, 2010:

Here, since [Malayan Insurance] is considered a forced party and fall[s] within the class of "other parties" making it, for purpose of appealing to the higher court the final order adjudicating liability on its undertaking, jurisdiction is not lost. This is because, with **the period to appeal pertaining to the surety has not even started to run given that its [MR] is still pending**, the expiration of the period to appeal by such party mentioned in Section 9[,] Rule 41 has not even commenced. In other words, this Court has absolute authority to decide on this question and such other questions until limited by the setting of the residual jurisdiction upon the happening of the condition described therein.¹¹² (Emphasis ours)

The RTC Makati should have first resolved the MR of Malayan Insurance, especially since the arguments in the motion could still prompt the trial court to recall its prior resolve to declare the injunction bonds liable for the damages awarded to the petitioners. As the Court held in *JP Latex Technology, Inc. v. Ballons Granger Balloons, Inc., et al.*:¹¹³

Where there is a pending [MR] of the RTC decision, an order [of] execution pending appeal is improper and premature. The pendency of the [MR] legally precludes execution of the RTC decision because the motion serves as the movant's vehicle to point out the findings and conclusions of the decision which, in his view, are not supported by law or the evidence and, therefore, gives the trial judge the occasion to reverse himself. In the

¹¹¹ *Rollo* (G.R. No. 200749), Vol. IV, p. 1747.

¹¹² *Rollo* (G.R. No. 200749), Vol. III, p. 1154.

¹¹³ 600 Phil. 600 (2009).

event that the trial judge finds the [MR] meritorious, he can of course reverse the decision.¹¹⁴ (Citation omitted)

Finally, the RTC erred in ordering the execution pending appeal because the petitioners' recourse against PSPC for the obligations of Shell Oil remained uncertain, even doubtful, at the time the execution pending appeal was allowed. Records confirm that the trial court was appraised of the CA-Mindanao Station's injunctive writs in CA-G.R. SP No. 03101-MIN, which covered RTC Davao City's Order dated August 11, 2009 and Alias Writ of Execution dated August 12, 2009 affecting PSPC. When it finally decided on the merits of CA-G.R. SP No. 03101-MIN, the appellate court even later on ruled against the validity of the RTC Davao City's issuances.

Clearly, the RTC Makati gravely abused its discretion when it allowed an execution pending appeal in favor of the petitioners. The CA only ruled properly when it nullified the trial court's Order dated June 8, 2010 and writ of execution dated June 9, 2010.

G.R. No. 208725

Intervention

The Court finds it necessary to first resolve the issue on the petitioners' right to intervene in Civil Case No. 09-941, for it is only after their legal interest in the case is established can they be allowed to validly raise the other issues that could support the complaint's dismissal, such as the procedural issues affecting mootness of the case and the alleged forum shopping.

On the matter of the petitioners' intervention in Civil Case No. 09-941, Section 1 of Rule 19 of the Rules of Court applies. This provision identifies the persons who may rightfully intervene in a court action, as it reads:

Sec. 1. *Who may intervene.* – A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

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Id. at 611.

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The petitioners insist that their interest in the case stems from their standing in Civil Case No. 95-45, being the persons intended to benefit from the RTC Davao City's amended order and alias writ of execution affecting PSPC. The Court, however, disagrees with this assertion, taking into account the nature of the injunction case and the court's rulings in related cases that ultimately determined the liability of PSPC for the petitioners' claims against Shell Oil.

The CA ruled correctly when it declared the petitioners to be wanting of any legal interest in Civil Case No. 09-941. Civil Case No. 09-941 was a complaint for injunction filed by PSPC against BDO and John Doe, as it sought to prevent the bank from releasing its funds to the sheriffs or any other person who might attempt to withdraw from its accounts under Civil Case No. 95-45. It is material that the RTC Davao City's amended order and alias writ of execution in Civil Case No. 95-45 had been nullified by the CA in CA-G.R. SP No. 03101-MIN. This ruling could not be simply disregarded in determining the petitioners' legal interest in Civil Case No. 09-941, especially since the appellate court defined therein the limits of Shell Oil's obligations under the compromise agreements and the parties that were bound thereby. After finding that Shell Oil had fully satisfied its obligations under the compromise agreement, the CA went on to cite the RTC Davao City's error in declaring affiliates and subsidiaries such as PSPC liable for the obligations of Shell Oil. It explained:

Corollary thereto is the issue on whether or not the Court a quo acquired jurisdiction over them. The lingering question really is whether or not the act of the public respondent in holding non-parties to the Abenion case and non-parties of the Compromise Agreements like the alleged subsidiaries and affiliates of DOW, OCCIDENTAL, SHELL OIL and DEL MONTE Group in the Philippines constitutes grave abuse of discretion, for being blatant violation of their right to due process. We rule in the affirmative.

Evidently even the Amended Complaint filed before the Panabo Court is only against petitioners SHELL OIL, OCCIDENTAL, DOW and the DEL MONTE Group. Nowhere in the said Amended Complaint are the names of x x x [PSPC], SHELL GAS EASTERN, INC., THE SHELL COMPANY OF THE PHILIPPINES, LIMITED and SHELL PHILIPPINES EXPLORATION, B.V. (SPEX) the alleged subsidiaries and/or affiliates of SHELL OIL ever mentioned.

Thus, We disagree with private respondents' [Abenion, et al.] insistence that they actually impleaded the subsidiaries or affiliates of the petitioners in their initiatory Complaint filed with the Panabo Court, as was alleged in the Amended Complaint, thus:

x x x x

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as the Petitioners were neither impleaded nor named with specificity. No proofs were adduced to show the ties of the subsidiaries with their alleged principal. x x x.

On an important note, jurisprudence tells us that jurisdiction over the person of a party is assumed upon the service of summons in the manner required by law or otherwise by his voluntary appearance. Thus, as a rule if a defendant has not been summoned, the Court acquires no jurisdiction over his person and a personal judgment rendered against such defendant is null and void.

It bears stressing that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by judgment rendered by the court. x x x[.]

x x x x

Ironically, this complexity stemmed from a harmless provision of the Compromise Agreements (paragraph 28 thereof) thus[.]

*“This agreement and the rights[,] obligations, and covenants contained, herein shall **INURE TO THE BENEFIT** and be binding upon the plaintiffs and settling defendants and their respective parent corporation, subsidiaries, affiliates, controlled and related entities, successor and assigns.”*

a stipulation *pour autri* which could not be made to work against the interest of others, in this case the perceived subsidiaries and affiliates.

Stipulation *pour autri* as explained by the Supreme Court in the case of *Bonifacio Bros., Inc. et. al., vs. Mora[,] et. al.*, is a provision in favor of a third person not a party to the contract. x x x[.]¹¹⁵ (Citations omitted and emphasis and italics in the original)

Clearly, the circumstances rendered baseless the petitioners' pursuit against the funds of PSPC, if only to enforce a judgment claim that they had against Shell Oil. In going after PSPC, the petitioners merely relied on the RTC Davao City's Amended Order dated August 11, 2009 and Alias Writ of Execution dated August 12, 2009, which had been annulled and set aside in CA-G.R. SP No. 03101-MIN.

By their arguments, the petitioners in effect seek the Court to still re-examine the correctness of the pronouncements of the CA in CA-G.R. SP No. 03101-MIN. The Court, however, is precluded from doing so because it is not the subject of the present petitions. Moreover, the CA's decision in CA-G.R. SP No. 03101-MIN was already affirmed by the

¹¹⁵ *Rollo* (G.R. No. 208725), Vol. IV, pp. 1754-1757.

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Supreme Court *via* the Minute Resolutions dated October 3, 2012¹¹⁶ and October 23, 2013¹¹⁷ in G.R. Nos. 202295-301.

Thus, the CA correctly rejected the petitioners' plea to intervene in PSPC's injunction case against BDO. Intervention, as a remedy, is not a right but a matter that is left to the court's discretion.¹¹⁸ In all cases, legal interest in the matter in litigation is an indispensable requirement among intervenors. As the Court ruled in *Office of the Ombudsman v. Sison*,¹¹⁹ "[t]he interest, which entitles one to intervene, must involve the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment."¹²⁰ The herein petitioners failed to establish their interest in the funds of PSPC. The latter was neither their creditor nor one that could be held liable for the obligations of Shell Oil under the subject compromise agreement. The petitioners did not stand to lose by the injunction that was prayed for before the trial court.

Considering their failure to establish their legal interest in Civil Case No. 09-941, the petitioners could not now be allowed to raise the other issues affecting the injunction case, including the alleged procedural infirmities and the petitioners' claim in the injunction bond posted in the case. The Court finds it unnecessary to still discuss the merits of the petitioners' arguments on the said issues. Moreover, it is clear that the eventual finality of the CA ruling to nullify the RTC Davao City's Amended Order dated August 11, 2009 and Alias Writ of Execution dated August 12, 2009 has rendered moot and academic the claims of the petitioners against PSPC and BDO. This applies to both G.R. No. 200749 and G.R. No. 208725, because both disputes merely stemmed from an implementation of the nullified court issuances. The petitioners have lost any remedy against PSPC and necessarily, the latter's funds with BDO, for their claims in Civil Case No. 95-45. Circumstances that render a case moot were explained by the Court in *Deutsche Bank AG v. Court of Appeals, et al.*,¹²¹ wherein it declared that "[a] moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value. Generally, courts decline jurisdiction over such case or dismiss it on ground of mootness."¹²²

WHEREFORE, the petitions for review on *certiorari* docketed as G.R. No. 200749 and G.R. No. 208725 are **DENIED**.

¹¹⁶ *Rollo* (G.R. No. 200749), Vol. V, pp. 2859-2860.

¹¹⁷ *Id.* at 2861-2864.

¹¹⁸ *Ongco v. Dalisay*, 691 Phil. 462, 469 (2012).

¹¹⁹ 626 Phil. 598 (2010).

¹²⁰ *Id.* at 609.

¹²¹ 683 Phil. 80 (2012).

¹²² *Id.* at 88.

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SO ORDERED.

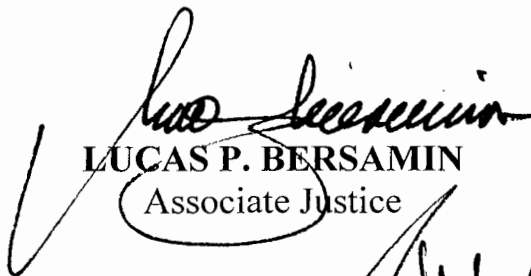


BIENVENIDO L. REYES
Associate Justice

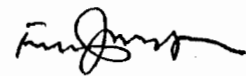
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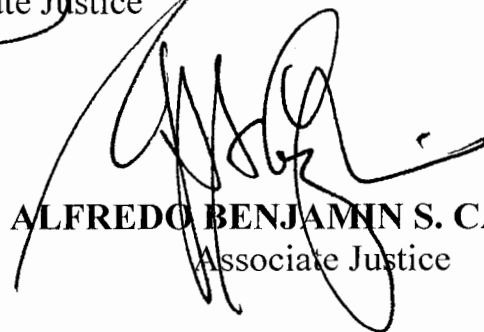
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMN S. CAGUIOA
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.



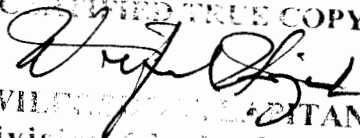
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

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

CERTIFIED TRUE COPY

WILFREDO M. LAPIDAN
Division Clerk of Court
THIRD DIVISION

MAR 10 2017