

Wilfredo V. Lapidan
WILFREDO V. LAPIDAN
Division Clerk of Court
Third Division

DEC 20 2018



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REYNALDO E. ORLINA,
Petitioner,

G.R. No. 227033

Present:

- versus -

PERALTA, J., Chairperson,
LEONEN,
GESMUNDO,
REYES, J.C., JR., and
HERNANDO, JJ.

CYNTHIA VENTURA,
represented by her sons ELVIC
JHON HERRERA and ERIC VON
HERRERA,

Promulgated:

Respondents.

December 3, 2018

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Wilfredo V. Lapidan

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DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision¹ dated October 26, 2015 and the Resolution² dated September 14, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 133837 which annulled and set aside the Decision³ dated May 14, 2012 of the Regional Trial Court (RTC) of Quezon City, Branch 215, which in turn, approved the Final Bill of Sale issued by the City Treasurer of Quezon City in favor of petitioner Reynaldo E. Orlina, declared Transfer Certificate of Title (TCT) No. 272336 in the name of respondent Cynthia Ventura null and void, and ordered the issuance of a new title covering the subject property in the name of Orlina.

The antecedent facts are as follows:

¹ Penned by Associate Justice Samuel H. Gaerlan, with Associate Justices Franchito N. Diamante and Ma. Luisa C. Quijano-Padilla, concurring; *rollo*, pp. 174-184.

² *Id.* at 193-194.

³ Penned by Judge Ma. Luisa C. Quijano-Padilla; *id.* at 128-132.

HL

The property involved in the present controversy is a 406 square meter parcel of land located in Baesa, Quezon City and covered by TCT No. 272336 in the name of Ventura, and likewise, covered by Tax Declaration No. E-004-01387. From 1998 to 2008, Ventura had been delinquent in the payment of its real property taxes amounting to ₱27,471.18, inclusive of penalty charges, failing to pay despite notice of such delinquency. As a result, the City Treasurer of Quezon City issued a warrant subjecting the property to levy. To satisfy the tax delinquency, the property was then advertised for sale at a public auction by posting a notice at the main entrance of the Quezon City Hall, as well as in a public and conspicuous place in the barangay where the property was located, and by publication in a newspaper of general circulation. On April 2, 2009, a public auction was conducted during which Orlina turned out to be the highest bidder with a bid price of ₱400,000.00. The corresponding Certificate of Sale was issued in his favor on even date. After the lapse of the one (1)-year period of redemption without Ventura redeeming the subject property, the City Treasurer of Quezon City issued a Final Bill of Sale to Orlina.⁴

Consequently, Orlina filed a petition for the approval of the final bill of sale, cancellation of the original and duplicate copy of TCT No. 272336, and issuance of a new certificate of title for the subject property in his favor. On September 28, 2011, the RTC issued an Order setting the case for hearing on December 7, 2011 and directed the service of notice of hearing, together with a copy of the petition and its annexes upon the following: the Register of Deeds of Quezon City, the Land Registration Authority of Quezon City, the Secretary of the Department of Environment and Natural Resources, the Office of the Solicitor General, and the City Prosecutor of Quezon City. The RTC also ordered the posting of a notice of hearing at the main entrance of the Quezon City Hall, the bulletin board of the RTC, and at the site of the subject property. During the initial hearing on December 7, 2011, Orlina marked several documents to establish compliance with the jurisdictional requirements. There being no opposition filed, the RTC issued an order of general default and granted Orlina's motion to present evidence *ex-parte*.⁵

On May 14, 2012, the RTC rendered a Decision the dispositive portion of which reads:

WHEREFORE, premises considered, pursuant to Section 75 of P.D. No. 1529, the Final Bill of Sale issued by the City Treasurer of Quezon City in favor of petitioner Reynaldo Orlina is hereby APPROVED and CONFIRMED, PROVIDED, however, that the proceeds of the sale in excess of the delinquent tax, including the interest due thereon, and the expenses of the sale, in the total amount of P363,869.75, shall be remitted

⁴ *Id.* at 175.

⁵ *Id.* at 176.



to Cynthia F. Ventura, the registered owner of the real property, or person having legal interest therein. Further, TCT No. 272336 of the Registry of Deeds of Quezon City issued in the name of Cynthia F. Ventura is hereby declared NULL AND VOID.

Upon finality of this Decision, the Register of Deeds of Quezon City is ordered to cause the issuance of a new title covering the property subject of this petition in the name of REYNALDO ORLINA.

Let copies of this Decision be furnished to the following:

The Regist[er] of Deeds - Quezon City;
The Administrator, LRA – Quezon City;
The Secretary, DENR – Quezon City;
The Office of the Solicitor General – Makati City; and
The City Prosecutor – Quezon City.


SO ORDERED.⁶

Pursuant to the Decision quoted above, TCT No. 004-2012010324 was issued in favor of Orlina, who subsequently filed an *ex-parte* motion for the issuance of a writ of possession, which was granted by the RTC in an Order dated February 27, 2013.

It was only at this point that Ventura filed an omnibus motion seeking a reconsideration of the RTC's Decision. She argued that the RTC did not acquire jurisdiction over her person, thus, depriving her of her right to due process. She also filed an urgent motion for reconsideration of the Order granting the issuance of the writ of possession, praying for the suspension of its implementation pending resolution of the omnibus motion. In denying both motions, however, the RTC held that the reliefs sought by Ventura are proper to be raised and taken up in a separate action and not in a case before it, which is already decided and has become final.⁷

On October 26, 2015, however, the CA annulled and set aside the Decision of the RTC and all subsequent proceedings taken in relation thereto. It held that there was no proof that Ventura was served with notices of the proceedings before the trial court. As a consequence of this violation of her constitutional right to due process, said court did not acquire jurisdiction over her person. Thus, the CA disposed of the case as follows:

WHEREFORE, premises considered, the instant petition is GRANTED. Accordingly, the assailed Decision dated 14 May 2012 and all proceedings, resolutions, orders and other issuances are hereby ANNULLED and SET ASIDE.



⁶ *Id.* at 131-132.

⁷ *Id.* at 177.

The Register of Deeds of Quezon City is hereby ORDERED to CANCEL TCT No. 004-2012010324 issued in the name of private respondent Reynaldo Orlina as a consequence of the execution of the disposition in LRC Case No. Q-32175(11) and to REINSTATE TCT No. 272336 in the name of petitioner Cynthia Ventura.

SO ORDERED.⁸

Upon the denial of Orlina's motion for reconsideration, he elevated the matter before the Court *via* the instant petition, assigning the following grounds:

I.

WHETHER OR NOT THE REMEDY OF CERTIORARI CAN BE AVAILED OF BY THE HEREIN [RESPONDENT] DESPITE LOSS OF REMEDY OF APPEAL.

II.

WHETHER OR NOT THE REGIONAL TRIAL COURT THAT APPROVED THE FINAL BILL OF SALE HAS JURISDICTION TO DETERMINE THE COMPLIANCE WITH THE TAX SALE PROCEEDING CONDUCTED BY THE CITY GOVERNMENT OF QUEZON CITY.

III.

WHETHER OR NOT THE [RESPONDENT] COMPLIED WITH [THE] REQUIREMENTS ON VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING.

IV.

WHETHER OR NOT THE PETITION IS A COLLATERAL ATTACK ON THE CERTIFICATE OF TITLE OF THE HEREIN [PETITIONER].


V.

WHETHER OR NOT THE REGIONAL TRIAL COURT ACQUIRED JURISDICTION OVER THE PERSON OF HEREIN [RESPONDENT].⁹

First, Orlina argues that the petition for *certiorari* filed by Ventura before the CA should not have been allowed, since it is not a substitute for her lost appeal. At the time she filed her Omnibus Motion for Reconsideration questioning the Decision of the RTC, the same had already become final. *Second*, he maintains that the RTC that approved the final bill of sale had jurisdiction to determine the validity of the tax delinquency auction sale proceeding conducted by the City Government of Quezon City. Any question Ventura may raise as regards the said sale must be raised in an entirely separate proceeding and not in the petition for approval of final bill of sale filed by Orlina. *Third*, Orlina assails the verification and certification of non-forum shopping filed by Ventura accompanying her petition before

⁸ *Id.* at 183-184.

⁹ *Id.* at 12.



the CA on the ground that the same was signed by her sons and not by Ventura herself. According to him, there is no justifiable reason for Ventura's sons to substitute her. Neither was there any mention of an authority to sign said verification in her behalf in the Special Power of Attorney attached to the petition filed before the CA. *Fourth*, granting the existence of irregularities in the tax delinquency sale, the same must be determined in a separate case and not in the instant petition for approval of final bill of sale as the same is tantamount to a collateral attack on Orlina's title. This is because the subject property was already transferred in his name. It cannot simply be altered, modified, or cancelled, except in a direct proceeding in accordance with law. *Finally*, Orlina insists that the RTC duly acquired jurisdiction over her person. Contrary to the findings of the CA that Ventura was not served with any notice of the proceedings, he and the City Treasurer of Quezon City actually sent the warrant of levy and notices to Ventura using the address stated in the tax declaration and certificate of title of the subject property. In addition to this, the posting requirement was, likewise, complied with when the order of the trial court was posted at the site where the property is located. Thus, Ventura was sufficiently accorded due process and any accusation of malice on the part of Orlina is negated. Ventura only has herself to blame for her belated participation in the proceeding which has already attained finality.

We rule in favor of Ventura.

As a general rule, the perfection of an appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional, and the failure to perfect the appeal renders the judgment of the court final and executory.¹⁰ As such, it has been held that the availability of an appeal is fatal to a special civil action for *certiorari* for the same is not a substitute for a lost appeal.¹¹ This is in line with the doctrine of finality of judgment or immutability of judgment under which a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.¹²

But like any other rule, the doctrine of immutability of judgment has exceptions, namely: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) *void judgments*; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable. Similarly, while it is doctrinally entrenched that *certiorari* is not a substitute for a lost appeal, the Court has allowed the resort to a petition for *certiorari* despite the existence

¹⁰ *PO2 Montoya v. Police Director Varilla, et al.*, 595 Phil. 507, 522 (2008).

¹¹ *Gomeco Metal Corporation v. Court of Appeals*, 793 Phil. 355, 387 (2016).

¹² *Id.* at 379.



of or prior availability of an appeal, such as: (1) where the appeal does not constitute a speedy and adequate remedy; (2) *where the orders were also issued either in excess of or without jurisdiction*; (3) for certain special considerations, as public welfare or public policy; (4) where in criminal actions, the court rejects rebuttal evidence for the prosecution as, in case of acquittal, there could be no remedy; (5) *where the order is a patent nullity*; and (6) where the decision in the *certiorari* case will avoid future litigations.¹³

Thus, in many instances, the Court found it necessary to apply the exception rather than the general rule above. In *Montoya v. Varilla*,¹⁴ for example, the Court therein held that since the proceedings dismissing Montoya from service were conducted without notice to him, the judgment of dismissal was rendered in violation of his right to due process. As such, even if his appeal thereof was filed beyond the period provided by law, Montoya was not barred from filing the same because the violation of his constitution right deprived the regional director of jurisdiction over his case thereby rendering the judgment null and void. Likewise, in *Salva v. Valle*, the Court excused the fact that the appeal filed by Valle was beyond the reglementary period and allowed the liberal application of the rules of procedure for perfecting appeals in exceptional circumstances to better serve the interest of justice. While it is desirable that the Rules of Court be faithfully and even meticulously observed, courts should not be so strict about procedural lapses that do not really impair the proper administration of justice. Thus, if the rules are intended to ensure the orderly conduct of litigation, it is because of the higher objective they seek, which is the protection of substantive rights of the parties.

In like manner, the Court, in *Philippine National Bank (PNB) v. Spouses Perez*,¹⁵ did not hesitate in affirming the ruling of the CA which granted PNB's petition for *certiorari* even with the existence of the remedy of appeal and even if the challenged RTC decision had already become final and executory and was, in fact, already the subject of a writ of execution. There, PNB sought to foreclose the mortgaged properties of the Spouses Perez when they defaulted on their financial obligations. Refusing to admit their obligation, the spouses filed an action to release the mortgaged properties and to annul the sheriff's notice of extra-judicial sale, among others. When the trial court set the case for hearing, it failed to issue a proper notice of pre-trial to PNB. Consequently, PNB failed to attend the hearing. The trial court then allowed the Spouses Perez to present their evidence *ex-parte* and eventually rendered judgment in favor of the spouses enjoining PNB from foreclosing their properties. Nevertheless, the Court therein ruled that the trial court committed grave abuse of discretion when it allowed the spouses to present evidence *ex-parte* without due notice to PNB. This lack of

¹³ *Id.* at 387-388. (Emphases ours).

¹⁴ *Supra* note 10, at 520.

¹⁵ 667 Phil. 450 (2011).



notice of pre-trial rendered all subsequent proceedings null and void. Hence, the CA was correct in not dismissing the petition for *certiorari* and ordering the titles issued in favor of the spouses to revert back to PNB.¹⁶

Similarly, in the instant case, the trial court failed to serve Ventura with a notice of hearing and a copy of the petition with its annexes. As aptly found by the CA, there was no proof that Ventura was personally served with said notice. Neither was there proof of substantial service or even service by publication in a newspaper of general circulation. The records of the present case reveal that only the following were notified: the Register of Deeds of Quezon City, the Land Registration Authority of Quezon City, the Secretary of the Department of Environment and Natural Resources, the Office of the Solicitor General, and the City Prosecutor of Quezon City.

On this matter, Orlina insists that he and the City Treasurer of Quezon City actually sent the warrant of levy and notices to Ventura using the address stated in the tax declaration and certificate of title of the subject property. In addition, the posting requirement was, likewise, complied with when the order of the trial court was posted at the site where the property is located. The Court, however, finds said contention unacceptable. *First*, the notices allegedly sent to Ventura were made in a separate and distinct proceeding, specifically, the tax sale. Nowhere in the records of the case, however, did Orlina show that Ventura was duly notified of the instant proceeding for the approval of the final bill of sale, cancellation of the original and duplicate copy of TCT No. 272336, and issuance of a new certificate of title for the subject property in Orlina's favor.

Second, while Orlina persistently argues that notices were sent to Ventura, the validity and due execution of the same remain doubtful. The Court is curious as to why, in attempting to prove proper notification, Orlina makes reference to different addresses. To illustrate, in his petition before the Court alone, he refers to three (3) different addresses where notices were allegedly sent. In page 13 thereof, he categorically states that "it cannot be denied and, in fact, admitted by the petitioner-appellee (Ventura) that its address is in *No. 201 Quirino Highway, Baesa, Quezon City*."¹⁷ But in page 18, Orlina provides that "it is very clear in the Tax Declaration of Real Property that the address of the (sic) Cynthia Ventura is *201 Baesa, Caloocan City*."¹⁸ In page 19, moreover, he again makes mention of yet another address in saying that "the certificate of posting of the court interpreter dated October 4, 2011 shows that the Order of the Honorable Court dated September 28, 2011 was posted at *No. 201 Baesa, Balintawak, Quezon City*." Furthermore, as Ventura points out, Orlina sent out notices and other court documents to different addresses. For one, he sent his Demand to Vacate to *201 Quirino Highway, Baesa, Quezon City*, which is

¹⁶ *Philippine National Bank v. Spouses Perez*, *supra* note 15, at 467.

¹⁷ *Rollo*, p. 13.

¹⁸ *Id.* at 18.

actually the true address of Ventura and her heirs. But on other occasions, however, Orlina's *Ex-Parte* Motion for the Issuance of a Writ of Possession, as well as his Petition for the Approval of Bill of Sale, were both addressed to 201 EDSA, Baesa, Caloocan City.

To the Court, these circumstances belie Orlina's claims of good faith. But even if we assume that he sent notices to the different addresses by mere honest mistake and in good faith, believing said addresses to be true, the fact remains that Ventura was, indeed, not properly notified of the instant proceedings. Verily, this fact alone is a denial of her right to due process which the Court deems necessary to correct. Time and again, the Court has held that where there is an apparent denial of the fundamental right to due process, a decision that is issued in disregard of that right is void for lack of jurisdiction,¹⁹ in view of the cardinal precept that in cases of a violation of basic constitutional rights, courts are ousted from their jurisdiction. This violation raises a serious jurisdictional issue which cannot be glossed over or disregarded at will. Thus, it is well settled that a judgment or decision rendered without due process is void *ab initio* and may be attacked at any time directly or collaterally by means of a separate action, or by resisting such decision in any action or proceeding where it is invoked²⁰ for such judgment or decision is regarded as a "lawless thing which can be treated as an outlaw and slain at sight, or ignored wherever it exhibits its head."²¹

As the CA noted, the action filed by Orlina is a petition seeking the cancellation of Ventura's title and the issuance of a new one under his name, brought under the auspices of Sections 75²² and 108²³ of Presidential Decree

¹⁹ *Salva v. Valle*, 707 Phil. 402, 419 (2013).

²⁰ *Id.*

²¹ *Montoya v. Varilla*, *supra* note 10, at 522.

²² Section 75. Application for new certificate upon expiration of redemption period. Upon the expiration of the time, if any, allowed by law for redemption after registered land has been sold on execution taken or sold for the enforcement of a lien of any description, except a mortgage lien, the purchaser at such sale or anyone claiming under him may petition the court for the entry of a new certificate of title to him.

Before the entry of a new certificate of title, the registered owner may pursue all legal and equitable remedies to impeach or annul such proceedings.

²³ Section 108. Amendment and alteration of certificates. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by Register of Deeds, except by order of the proper Court of First Instance. A registered owner or other person having an interest in registered property, or, in proper cases, the Register of Deeds with the approval of the Commissioner of Land Registration, may apply by petition to the court upon the ground that the registered interests of any description, whether vested, contingent, expectant or inchoate appearing on the certificate, have terminated and ceased; or that new interest not appearing upon the certificate have arisen or been created; or that an omission or error was made in entering a certificate or any memorandum thereon, or, on any duplicate certificate; or that the same or any person on the certificate has been changed; or that the registered owner has married, or, if registered as married, that the marriage has been terminated and no right or interests of heirs or creditors will thereby be affected; or that a corporation which owned registered land and has been dissolved has not convened the same within three years after its dissolution; or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry or cancellation of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security or bond if necessary, as it may consider proper; Provided, however, That this section shall not be construed to give the court authority to reopen the judgment or decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs and assigns, without his or their

(P.D.) No. 1529; otherwise known as the *Property Registration Decree*, which is evidently an action *in rem*. While jurisdiction over the parties in an action *in rem* is not a prerequisite to confer jurisdiction on the court, it is nonetheless required to satisfy the requirements of due process.²⁴

In view thereof, We find that the CA aptly held that the order of the RTC of general default, allowing Orlina to adduce evidence *ex-parte*, is void for violating Ventura's right to due process. Similarly, the May 14, 2012 Decision of said trial court, which granted Orlina's petition for approval of deed of sale and the transfer of the titles in his name, and all subsequent orders issued pursuant to the said judgment are also null and void. It has been held in the past that a void judgment is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Necessarily, it follows that the nullity of the RTC Decision carries with it the nullity of all acts done which implemented the same. This includes the issuance of the new TCT No. 004-201201324 in the name of Orlina.²⁵

As for Orlina's belated attempt at refuting Ventura's allegation of denial of due process, We find that the fact that the verification and certification of non-forum shopping accompanying the petition before the CA was signed by her sons and not by Ventura herself should not affect the substantive findings of the present case. It must be noted that at the time when the subject RTC Decision was rendered in violation of her right to due process and when demands on her sons to vacate the premises, Ventura was already residing in the United States as stated in the Special Power of Attorney attached to the certification and petition filed before the CA. This constitutes justifiable reason for her sons to substitute her in the instant case. As We previously mentioned, rules of procedure are tools to facilitate and not hinder the administration of justice and, thus, for justifiable reasons, may adopt a liberal application thereof.

WHEREFORE, premises considered, the instant petition is **DENIED**. The assailed Decision dated October 26, 2015 and Resolution dated September 14, 2016 of the Court of Appeals in CA-G.R. SP No. 133837 are **AFFIRMED** with **MODIFICATION**. The Regional Trial Court of Quezon City, Branch 215, is **DIRECTED** to **CONDUCT** further proceedings with dispatch on the Petition for the Approval of the Final Bill of Sale, Cancellation of the Original and Duplicate Copy of TCT No. 272336, and Issuance of a New Certificate of Title.


written consent. Where the owner's duplicate certificate is not presented, a similar petition may be filed as provided in the preceding section.

All petitions or motions filed under this Section as well as under any other provision of this Decree after original registration shall be filed and entitled in the original case in which the decree or registration was entered.

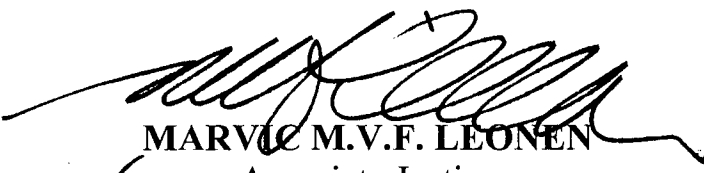
²⁴ *Rollo*, pp. 181-182.

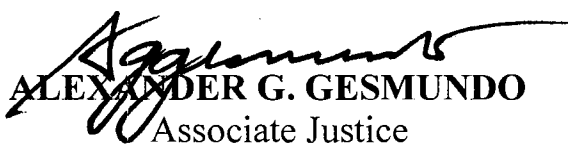
²⁵ *Philippine National Bank v. Spouses Perez*, *supra* note 15, at 471.

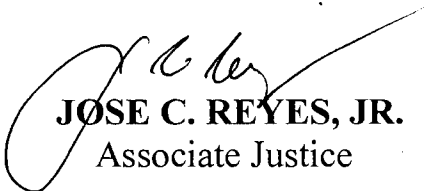
SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice

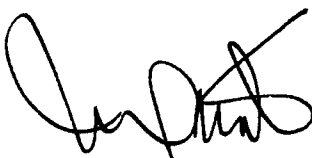

ALEXANDER G. GESMUNDO
Associate Justice


JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

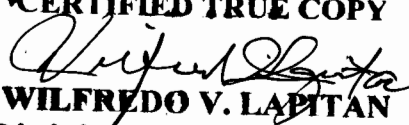
ATTESTATION

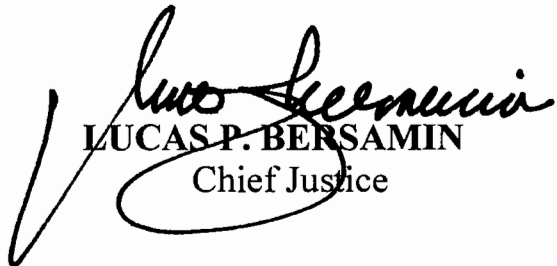
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division


LUCAS P. BERSAMIN
Chief Justice

DEC 20 2019