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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
AUG 23 2018

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- versus -

RONALD M. COSALAN,
Respondent.

G.R. No. 216999

Present:

VELASCO, JR., *J., Chairperson,*
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, *JJ.*

Promulgated:

July 4, 2018

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DECISION

GESMUNDO, *J.*:

This is an appeal by c*ertiorari* seeking to reverse and set aside the August 27, 2014 Decision[1] and the February 4, 2015 Resolution[2] of the Court of Appeals *(CA)* in CA-G.R. CV No. 98224 which affirmed *in toto* the July 29, 2011 Decision[3] of the Regional Trial Court, La Trinidad, Benguet *(RTC)*, Branch 10, granting the application for registration of title filed by of Ronald M. Cosalan *(respondent)*.

The Antecedents

The controversy involves a parcel of land located in Sitio Adabong, Barrio Kapunga, Municipality of Tublay, Benguet, with an area of 98,205

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[1] Id. at 50-63; penned by Associate Justice Socorro B. Inting with Associate Justices Jose C. Reyes, Jr., and Mario V. Lopez, concurring.
[2] Id. at 64-65.
[3] Id. at 72-80.

square meters, more or less, under an approved Survey Plan PSU-204810, issued by the Bureau of Lands on March 12, 1964.

Respondent alleged that the Cosalan clan came from the Ibaloi Tribe of Bokod and Tublay, Benguet; that he was the eldest son of Andres Acop Cosalan (*Andres*), the youngest son of Fernando Cosalan (*Fernando*), also a member of the said tribe; that he was four generations away from his great-grandparents, Opilis and Adonis, who owned a vast tract of land in Tublay, Benguet; that this property was passed on to their daughter Peran who married Bangkilay Acop *(Bangkilay)* in 1858; that the couple then settled, developed and farmed the said property; that Acop enlarged the inherited landholdings, and utilized the same for agricultural purposes, principally as pasture land for their hundreds of cattle;[4] that at that time, Benguet was a cattle country with Mateo Cariño *(Mateo)* of the landmark case *Cariño v. Insular Government,*[5] having his ranch in what became Baguio City, while Acop established his ranch in Betdi, later known as Acop's Place in Tublay Benguet, that Mateo and Acop were contemporaries, and became "*abalayans*" (in-laws) as the eldest son of Mateo, named Sioco, married Guilata, the eldest daughter of Acop; and that Guilata was the sister of Aguinaya Acop Cosalan (*Aguinaya*), the grandmother of respondent.[6]

Respondent also alleged that Peran and Bangkilay had been in possession of the land under claim of ownership since their marriage in 1858 until Bangkilay died in 1918; that when Bangkilay died, the ownership and possession of the land was passed on to their children, one of whom was Aguinaya who married Fernando; that Acop's children continued to utilize part of the land for agriculture, while the other parts for grazing of work animals, horses and family cattle; that when Fernando and Aguinaya died in 1945 and 1950, respectively, their children, Nieves Cosalan Ramos (*Nieves*), Enrique Cosalan (*Enrique*), and Andres inherited their share of the land; that Nieves registered her share consisting of 107,219 square meters under Free Patent No. 576952, and was issued Original Certificate of Title *(OCT)* No. P-776;[7] that Enrique, on the other hand, registered his share consisting of 212,688 square meters through judicial process, docketed as Land Registration Case *(LRC)* No. N-87, which was granted by then Court of First Instance *(CFI)* of Baguio and Benguet, Branch 3, and was affirmed by the

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[4] Id. at 122; par. no. 7 of Respondent's Comment.
[5] 8 Phil. 150 (1907).
[6] *Rollo*, p. 122; par. no. 5 of Respondent's Comment.
[7] Id. at 307-308.

Court in its Decision[8] dated May 7, 1992, and that OCT No. O-238 was issued in his favor.[9]

Similarly, Andres sought the registration of his share (now the subject land) consisting of 98,205 square meters, more or less, through judicial process. He had the subject land surveyed and was subsequently issued by the Director of Lands the Surveyor's Certificate[10] dated March 12, 1964. Thereafter, he filed a case for registration, docketed as LRC Case No. N-422 (37), Record No. N54212, before RTC Branch 8. The case, which was archived on August 23, 1983, was dismissed on motion of Andres in the Order[11] dated November 13, 2004.

In 1994, Andres sold the subject land to his son, respondent, for the sum of ₱300,000.00, evidenced by the Deed of Absolute Sale of Unregistered Land[12] dated August 31, 1994.

On February 8, 2005, respondent filed an application for registration of title of the subject land before RTC Branch 10.[13] Respondent presented himself and Andres as principal witnesses and the owners of the properties adjoining the subject land namely, Priscilla Baban (*Priscilla*) and Bangilan Acop (*Bangilan*).

Respondent in his application alleged, among others, that he acquired the subject land in open, continuous, exclusive, peaceful, notorious and adverse occupation, cultivation and actual possession, in the concept of an owner, by himself and through his predecessors-in-interest since time immemorial; that he occupied the said land which was an ancestral land; that he was a member of the cultural minorities belonging to the Ibaloi Tribe;[14] that he took possession of the subject land and performed acts of dominion over the area by fencing it with barbed wires, constructing a 200-meter road, levelling some areas for gardening and future construction and planted pine trees, coffee and bamboos; and that he declared the subject land for taxation purposes and paid taxes regularly and continuously.[15]

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[8] Docketed as G.R. No. L-38810, entitled *Republic of the Philippines v. CA*, 284 Phil. 575 (1992).
[9] Records, pp. 309-310.
[10] Id. at 291-292.
[11] Id. at 329.
[12] Id. at 294-295.
[13] Id. at 1-3.
[14] Id. at 1-2.
[15] Id. at 121.

Priscilla, the maternal first cousin of Andres, testified that she was born in Acop, Tublay, Benguet on January 15, 1919 to parents Domingo Sapang and Margarina Acop *(Margarina);* that she inherited the property adjacent to the subject land from Margarina who, in turn, inherited it from her father Bangkilay; that her property and the subject land used to be parts of the vast tract of land owned by Bangkilay; that when Bangkilay died, the property was inherited by his children; that one of his daughters, Aguinaya, took possession of her share of the property; that Aguinaya and her husband Fernando then used the land for vegetation, raising cattle and agricultural planting; that when spouses Aguinaya and Fernando died, Andres took possession of the subject land and planted pine trees which he sold as Christmas trees, but when the sale of pine trees was banned, he allowed other people to use the trees for firewood; and that Andres thereafter sold the property to respondent.[16]

Bangilan, on the other hand, testified that he was 73 years old; that he had been residing in Barangay Adabong since he was seven (7) years old; that his father Cid Acop inherited the property adjoining the subject land; and that his father's property was issued a certificate of title.[17]

The Department of Environment and Natural Resources *(DENR)* - Cordillera Administrative Region (*CAR*), opposed the application filed by respondent on the ground that the subject land was part of the Central Cordillera Forest Reserve established under Proclamation No. 217.

The RTC Ruling

On July 29, 2011, the RTC approved respondent's application for registration. It held that the subject land was owned and possessed by his ancestors and predecessors even before the land was declared part of the forest reserve by virtue of Proclamation No. 217.

The RTC took note of the fact that the DENR itself issued free patent titles to lands within the Central Cordillera Forest Reserve. Specifically, the properties of Nieves and Cid Acop, which were immediately adjacent to the subject land had been granted torrens titles by the DENR though similarly located within the forest reserve. The decretal portion of the decision reads:

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[16] TSN, dated January 26, 2009.
[17] Id.

> WHEREFORE, this Court hereby approves this application for registration and thus places the land described under approved Survey Plan PSU-204810 issued by the Bureau of Lands on March 12, 1964 containing an area of 98,205 square meters, more or less under the operation of P.D. 1529, otherwise known as Property Registration Law, as supported by its technical description, in the name of Ronald M. Cosalan.
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> Upon finality of this Decision, let the corresponding decree of registration be issued.
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> SO ORDERED.[18]

Aggrieved, petitioner appealed before the CA.

The CA Ruling

In its decision dated August 27, 2014, the CA affirmed *in toto* the ruling of the RTC. It held that "[a]ncestral lands which are owned by individual members of Indigenous Cultural Communities (*ICCs*) or Indigenous Peoples (*IPs*) who, by themselves or through their predecessors-in-interest, have been in continuous possession and occupation of the same in the concept of owner since time immemorial or for a period of not less than 30 years, which claims are uncontested by the members of the same ICCs/IPs, may be registered under C.A. 141, otherwise known as the *Public Land Act* or Act 496, the *Land Registration Act*."[19]

Also, the CA stated that "while the Government has the right to classify portions of public land, the primary right of a private individual who possessed and cultivated the land in good faith much prior to such classification must be recognized and should not be prejudiced by after-events which could not have been anticipated... Government in the first instance may, by reservation, decide for itself what portions of public land shall be considered forestry land, unless private interests have intervened before such reservation is made."[20]

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[18] *Rollo*, p. 80.
[19] *Rollo*, p. 61
[20] *Rollo*, pp. 61-62, quoting *Ankron v. Government of the Philippine Island*, 10 Phil 10 (1919).

Petitioner filed a motion for reconsideration[21] but it was denied by the CA in its resolution dated February 4, 2015.

Hence, this petition.

The grounds for the allowance of the petition are:

> THE ASSAILED DECISION AND RESOLUTION OF THE COURT OF APPEALS ARE NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE, CONSIDERING THAT:
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> I
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> THE SUBJECT LAND IS A FOREST LAND WITHIN THE CENTRAL CORDILLERA FOREST RESERVE. IT WAS CONSIDERED A FOREST LAND EVEN PRIOR TO ITS DECLARATION AS SPECIAL FOREST RESERVE UNDER PROCLAMATION NO. 217. THEREFORE, IT IS NOT REGISTRABLE.
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> II
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> THE COURT OF APPEALS' RELIANCE IN *CRUZ VS. SECRETARY OF DENR* AND *CARIÑO V. INSULAR GOVERNMENT* IS MISPLACED.
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> III
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> THE COURT OF APPEALS' DECISION GRANTING RESPONDENT'S APPLICATION BASED ON *OH CHO VS. THE DIRECTOR OF LANDS*, *RAMOS VS. THE DIRECTOR OF LANDS*, AND *REPUBLIC VS. COURT OF APPEALS AND ENRIQUE COSALAN* ARE ERRONEOUS CONSIDERING THAT SAID CASES ARE NOT APPLICABLE TO THE INSTANT CASE. WHAT IS MORE, THE COURT OF APPEALS' DECISION IS IN DIRECT CONTRAVENTION OF THE PREVAILING DOCTRINE ENUNCIATED BY THIS HONORABLE COURT IN *DIRECTOR OF LAND MANAGEMENT AND DIRECTOR OF FOREST DEVELOPMENT VS. COURT OF APPEALS AND HILARIO*.
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> IV
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> RESPONDENT'S APPLICATION FOR REGISTRATION UNDER SECTION 12 OF THE IPRA LAW IN RELATION TO SECTION 48 OF THE COMMONWEALTH ACT NO. 141 IS COMPLETELY ERRONEOUS. COMMONWEALTH ACT NO.

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[21] Id. at 66-70.

141 APPLIES EXCLUSIVELY TO AGRICULTURAL PUBLIC LANDS.[22]

Petitioner's Arguments

Petitioner insists that the subject land is a forest land even prior to the enactment of Proclamation No. 217. Respondent's father even admitted that the subject land was in an elevated area of the forest reserve, which explains the absence of permanent improvements thereon and was utilized only for "*kaingin.*"[23] According to petitioner, the fact that the land was subjected to the *kaingin* system does not deprive it of its character as forest land.[24]

Petitioner claims that it is only the Executive Department, not the courts, which has authority to reclassify lands of public domain into alienable and disposable lands.[25]

Respondent's Arguments

In his Comment,[26] respondent countered that the subject land was an ancestral land and had been and was still being used for agricultural purposes; and that it had been officially delineated and recognized when the Director of the Bureau of Lands approved the survey plan for the land claimed by his predecessors and issued PSU-204810 on March 12, 1964.[27] He averred that the subject land was openly and continuously occupied by him and his predecessors-in-interest since time immemorial, and was cultivated or used by them for their own benefit.[28]

Respondent claimed that though the subject land was located in an elevated area, it had been used for dryland agriculture where camote, corn and vegetables were planted, for grazing of farm animals, and cattle; some portions were subjected to tree farming and several improvements have been introduced like the construction of a 200-meter roads and the levelling of other

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[22] *Rollo*, pp. 17-19.
[23] Id. at 20.
[24] Id. at 21-22.
[25] Id. at 23.
[26] Id. at 120-147.
[27] Id. at 126.
[28] Id. at 128.

areas for future construction, gardening, and planting of more pine trees, coffee and bamboo.[29]

The Court's Ruling

The petition is not meritorious.

As a rule, forest land located within the Central Cordillera Forest Reserve cannot be a subject of private appropriation and registration. Respondent, however, was able to prove that the subject land was an ancestral land, and had been openly and continuously occupied by him and his predecessors in-interest, who were members of the ICCs/IPs.

Section 3 (b) of Republic Act *(R.A.)* No. 8371[30] otherwise known as *The Indigenous Peoples Rights Act of 1997* (*IPRA Law*) defined ancestral lands as follows:

> Section 3 *(b) Ancestral Lands* - Subject to Section 56 hereof, refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots[.]

Ancestral lands are covered by the concept of native title that "refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest."[31] To reiterate, they are considered to have never been public lands and are thus indisputably presumed to have been held that way.

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[29] Id. at 129.

[30] An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous Peoples, creating a National Commission on Indigenous Peoples, establishing implementing mechanisms, appropriating funds therefore, and other purposes.

[31] Section 3 (l), of R.A. No. 8371 otherwise known as the IPRA Law.

The CA has correctly relied on the case of *Cruz v. Secretary of DENR,*[32] which institutionalized the concept of native title. Thus:

> Every presumption is and ought to be taken against the Government in a case like the present. It might, perhaps, be proper and sufficient to say that **when, as far back as testimony or memory goes, the land has been held by individuals under a claim of private ownership, it will be presumed to have been held in the same way before the Spanish conquest, and never to have been public land.**[33] (emphasis supplied)

From the foregoing, it appears that lands covered by the concept of native title are considered an exception to the *Regalian Doctrine* embodied in Article XII, Section 2 of the Constitution which provides that all lands of the public domain belong to the State which is the source of any asserted right to any ownership of land.[34]

The possession of the subject land by respondent's predecessors-in-interest had been settled in the case of *Republic v. CA and Cosalan*[35] filed by respondent's uncle, Enrique Cosalan. In the said case, Aguinaya, the mother of Enrique, and grandmother of respondent, filed an application for free patent on the parcels of land which included the subject land as early as 1933. The Court held that Enrique and his predecessors-in-interest had been in continuous possession and occupation of the land since the 1840s, long before the subject land was declared part of a forest reserve.[36] Moreover, the CA in its decision noted that Nieves and Cid Acop, whose lands were adjacent to the subject land, were awarded titles to their respective lands despite being located within the same forest reserve as the subject land.

Petitioner's reliance on the ruling of *Director of Land Management and Director of Forest Development v. CA and Hilario*[37] is misplaced. The said case is not on all fours with the present case as the evidence presented in this case sufficiently established that private interests had intervened even prior to the declaration of the subject land as part of a forest reserve. As discussed in *Republic v. CA and Cosalan:*[38]

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[32] 400 Phil. 904 (2000).
[33] Citing *Cariño v. Insular Government*, 41 Phil. 935, 941 (1909)
[34] *Republic of the Philippines v. Heirs of Sin*, 730 Phil. 414, 423 (2014), citing *Valiao, et al. v. Republic of the Philippines, et al.,* 677 Phil. 318, 326 (2011).
[35] 284 Phil. 575 (1992).
[36] Id. at 579-580.
[37] 254 Phil. 456 (1989).
[38] Supra note 35.

> The present case, however, admits of a certain twist as compared to the case of *Director of Lands, supra,* in that evidence in this case shows that as early as 1933, Aguinaya, mother of petitioner has filed an Application for Free Patent for the same piece of land. In the said application, Aguinaya claimed to have been in possession of the property for 25 years prior to her application and that she inherited the land from her father, named Acop, who himself had been in possession of the same for 60 years before the same was transferred to her.
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> **It appears, therefore, that respondent Cosalan and his predecessors-in-interest have been in continuous possession and occupation of the land since the 1840s.** Moreover, as observed by the appellate court, the application of Aguinaya was returned to her, not due to lack of merit, but –
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> > "As the land applied for has been occupied and cultivated prior to July 26, 1894, title thereto should be perfected thru judicial proceedings in accordance with Section 45 (b) of the Public Land Act No. 2874, as amended."
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> Despite the general rule that forest lands cannot be appropriated by private ownership, it has been previously held that "while the Government has the right to classify portions of public land, **the primary right of a private individual who possessed and cultivated the land in good faith much prior to such classification must be recognized and should not be prejudiced by after-events which could not have been anticipated** . . . Government in the first instance may, by reservation, decide for itself what portions of public land shall be considered forestry land, unless private interests have intervened before such reservation is made.[39] (emphases supplied)

Hence, respondent's application for registration under Section 12 of the IPRA Law in relation to Section 48 of the CA No. 141 was correct. Section 12, Chapter III of IPRA Law states that individually-owned ancestral lands, which are agricultural in character and actually used for agricultural, residential, pasture, and tree farming purposes, including those with a slope of eighteen percent (18%) or more, are hereby classified as alienable and disposable agricultural lands.

As stated, respondent and his witnesses were able to prove that the subject land had been used for agricultural purposes even prior to its declaration as part of the Central Cordillera Forest Reserve. The subject land had been actually utilized for dry land agriculture where camote, corn and vegetables were planted and some parts of which were used for grazing farm animals, horses and cattle. Moreover, several improvements have been

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[39] Id.

introduced like the 200-meter road and the levelling of areas for future construction, gardening, planting of more pine trees, coffee and bamboo.

Verily, as the IPRA Law expressly provides that ancestral lands are considered public agricultural lands, the provisions of the Public Land Act or C.A. No. 141 govern the registration of the subject land. Also, Section 48 (b) and (c) of the same Act declares who may apply for judicial confirmation of imperfect or incomplete titles to wit:

> SEC. 48. The following described citizens of the Philippines, occupying lands of public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Regional Trial Court of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Property Registration Decree to wit:
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> xxxx
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> (b) Those who by themselves or through their predecessors in interest, have been in open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of public domain, under a bona fide claim of acquisition or ownership, since June 12, 1945, except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.
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> (c) Members of the national cultural minorities who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain, under a bona fide claim of ownership, since June 12, 1945 (As amended by PD. No. 1073, dated January 25, 1997).

In *Heirs of Gamos v. Heirs of Frando,*[40] it was held that where all the necessary requirements for a grant by the Government are complied with through actual physical possession openly, continuously, and publicly, with a right to a certificate of title to said land under the provisions of Chapter VIII of Act No. 2874, amending Act No. 926 (carried over as Chapter VIII of Commonwealth Act No. 141), the possessor is deemed to have already acquired by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title be issued in order

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[40] 488 Phil. 140 (2004).

that said grant may be sanctioned by the court — an application therefore being sufficient.[41]

Certainly, it has been proven that respondent and his predecessors-in-interest had been in open and continuous possession of the subject land since time immemorial even before it was declared part of the Central Cordillera Forest Reserve under Proclamation No. 217. Thus, the registration of the subject land in favor of respondent is proper.

WHEREFORE, the petition is **DENIED**. The August 27, 2014 Decision and the February 4, 2015 Resolution of the Court of Appeals in CA-G.R. CV No. 98224 are **AFFIRMED** *in toto*.

SO ORDERED.

ALEXANDER G. GESMUNDO
Associate Justice

[41] Id. at 152-153, citing *Susi v. Razon, et al.*, 48 Phil. 424 (1925).

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

SAMUEL R. MARTIRES
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, 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.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

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Division Clerk of Court
Third Division

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