

Republic of the Philippines
Supreme Court
Manila

EN BANC

PROVINCE OF PAMPANGA,
Petitioner,

G.R. No. 195987

Present:

PERALTA, *Chief Justice*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
DELOS SANTOS,
GAERLAN,
ROSARIO, and
LOPEZ, J., *JJ.*

-versus-

EXECUTIVE SECRETARY
ALBERTO ROMULO and
DEPARTMENT OF
ENVIRONMENT AND NATURAL
RESOURCES (DENR),
Respondents.

Done - Sr. A. Papa - Jmber
Promulgated:
January 12, 2021

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DECISION

LEONEN, J.:

While the power to enact laws is lodged with the legislature under the principle of separation of powers, this power may be delegated to the executive to fill in the details of the law. To be a valid delegation, however, the executive issuance must remain within the scope of authority given by

the legislature.

In contrast, the president's inherent ordinance-making power is not a delegated authority from the legislature, but is a consequence of executive control over officials of the executive branch. In the exercise of executive control, the president has the inherent power to adopt rules and regulations and delegate this power to subordinate executive officials.

This Court resolves the Petition for Review¹ filed by the Province of Pampanga assailing the Decision² and Resolution³ of the Court of Appeals, which reversed the Regional Trial Court Decision⁴ declaring Executive Order No. 224 invalid and unconstitutional.

On March 2, 1992, about a year after Mt. Pinatubo in Zambales had erupted and spewed lahar and other volcanic material, the Sangguniang Panlalawigan of Pampanga enacted Tax Ordinance No. 1,⁵ or Pampanga's Provincial Tax Code of 1992. Its Section 6 provided a 10% tax on the fair market value of quarry resources extracted from public lands and beds of water bodies in the province, and imposed permit fees for quarry operators.⁶

On December 14, 1992, the Sangguniang Panlalawigan of Pampanga passed Tax Ordinance No. 3,⁷ which fixed the fair market value of sand, gravel, and other quarry resources at ₱40.00 per cubic meter and assessed a fee of ₱4.00 per cubic meter for every such resource extracted within the province's jurisdiction.

On October 21, 1998, the Sangguniang Panlalawigan passed Tax Ordinance No. 1,⁸ repealing Tax Ordinance No. 3, series of 1992. Tax Ordinance No. 1 imposed a quarry fee of 10% of the prevailing fair market value of the extracted materials and directed the creation of a committee that shall fix the prevailing market value of quarry resources every quarter.

On January 11, 1999, President Joseph E. Estrada issued Proclamation No. 66,⁹ declaring the lahar-affected rivers and embankment areas in the provinces of Pampanga, Tarlac, and Zambales to be environmentally critical

¹ *Rollo*, pp. 9–38.

² *Id.* at 39–57. The August 24, 2010 Decision in CA-G.R. CV No. 83341 was penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Josefina Guevara-Salonga and Mariflor Punzalan Castillo of the Fourth Division, Court of Appeals, Manila.

³ *Id.* at 78–81. The February 22, 2011 Resolution in CA-G.R. CV No. 83341 was penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Josefina Guevara-Salonga and Mariflor Punzalan Castillo of the Fourth Division, Court of Appeals, Manila.

⁴ *Id.* at 161–174. The May 21, 2004 Decision in Special Civil Case No. 12740 was penned by Judge Serafin B. David of the Regional Trial Court of San Fernando City, Pampanga, Branch 48.

⁵ *Id.* at 93–101.

⁶ *Id.* at 94–95.

⁷ *Id.* at 102.

⁸ *Id.* at 103–104.

⁹ *Id.* at 105–106.

areas and mineral reservations under the direct control and supervision of the Department of Environment and Natural Resources.

Proclamation No. 66 authorized the Department of Environment and Natural Resources Secretary (Environment Secretary) to engage the services of the Natural Resources Development Corporation to manage the extraction and transportation of sand, gravel, and lahar, as well as to manage the rehabilitation of quarries in Pampanga, Tarlac, and Zambales.¹⁰

On April 23, 2002, President Gloria Macapagal-Arroyo (President Macapagal-Arroyo) issued Proclamation No. 183, revoking Proclamation No. 66.¹¹ However, on July 4, 2003, she issued Executive Order No. 224,¹² which rationalized the extraction and disposition of sand, gravel, and lahar deposits in the provinces of Pampanga, Tarlac, and Zambales.

On July 18, 2003, the Province of Pampanga filed before the Regional Trial Court a Petition for Declaratory Relief seeking to declare Executive Order No. 224¹³ unconstitutional. The case was filed against Executive Secretary Alberto G. Romulo (Executive Secretary Romulo) and the Department of Environment and Natural Resources.

The Petition alleged, among others, that Executive Order No. 224 violated the principle of local government autonomy under the Local Government Code; was an invalid exercise of presidential control and not just general supervision; was a violation of the equal protection clause; and was a form of executive lawmaking.¹⁴

The Province of Pampanga also applied for a temporary restraining order and writ of preliminary injunction.¹⁵ The trial court later issued a Temporary Restraining Order¹⁶ on August 11, 2003, directing Executive Secretary Romulo and the Department of Environment and Natural Resources to desist from implementing Executive Order No. 224 for 20 days while the hearing on the merits of the application for preliminary injunction was still pending.¹⁷

On September 1, 2003, the Regional Trial Court issued a Writ of Preliminary Injunction,¹⁸ thus:

¹⁰ Id. at 106. Proclamation No. 66 (1999), sec. 3.

¹¹ Id. at 85.

¹² Id. at 89–92.

¹³ Id. at 82–88.

¹⁴ Id. at 83 and 87.

¹⁵ Id. at 107–111.

¹⁶ Id. at 135–137. The Temporary Restraining Order was issued by Judge Serafin B. David of the Regional Trial Court of San Fernando, Pampanga, Branch 48.

¹⁷ Id. at 137.

¹⁸ Id. at 145–146. The Writ of Preliminary Injunction was issued by Judge Serafin B. David of the Regional Trial Court of San Fernando, Pampanga, Branch 48.

WHEREFORE, premises considered, the application for the issuance of Writ of Preliminary Injunction, being meritorious, the same is hereby granted.

The Respondents Executive Secretary, The Hon. Alberto G. Romulo, and the Department of Environment and Natural Resources (DENR) as well as its officers representing them are hereby enjoined not to implement E.O. No. 224, pending termination of the above-entitled Petition and/or until further order of this Court.

The Petitioner is hereby ordered and directed to post an injunction bond in the sum of P400,000.00, and upon approval of the same, this will be effective.

SO ORDERED.¹⁹

On May 21, 2004, the Regional Trial Court issued a Decision²⁰ granting the Petition and declaring Executive Order No. 224 as invalid and unconstitutional.

The trial court emphasized that any diminution or constriction in the taxing power of the local government units infringes on their authority to raise their own sources of revenue.²¹

The trial court noted that both the Local Government Code and the Philippine Mining Act of 1995 conferred on Pampanga the exclusive power to impose taxes on extracted sand, gravel, and other quarry resources, and collect fees from quarry operators, in response to the local government's constitutional mandate of local autonomy.²² The trial court stated:

The reason of the law is to bring directly to the coffer of the local government unit the local funds collected so that they can be used immediately without delay to meet their urgent needs in terms of local projects, general services, payrolls and others for administration purposes.

This is further emphasized by Section 6 of Article X [of the Constitution] with respect to the share of said local government unit in the national taxes which shall be automatically released to them[.] Local taxes are their very lifeblood which can not be delayed and withheld any minute longer. This is what local autonomy demands.²³ (Emphasis in the original)

Thus, the trial court held Section 4 of Executive Order No. 224 to be unconstitutional as it empowered a task force comprised of the Mines and

¹⁹ Id. at 146.

²⁰ Id. at 161–174. The Decision in Special Civil Case No. 12740 was penned by Judge Serafin B. David.

²¹ Id. at 167.

²² Id. at 167–169.

²³ Id. at 169.

Geosciences Bureau director, as team leader, and the provincial governor, as deputy team leader, to collect taxes, fees, charges, and excise taxes.²⁴

The trial court observed that the task force will become the repository of all local taxes, fees, and charges collected from the extracted quarry resources and will function as a “regulatory valve” that may reduce, increase, delay, or even stop the flow of local taxes to the provincial government. Since the task force is made accountable to the Environment Secretary, this may delay or stop the release of funds, added the trial court.²⁵ It maintained that Section 4 goes against the constitutional intent to empower local governments to create sources of revenue, with only Congress authorized to limit such power.²⁶

The trial court eventually struck down Executive Order No. 224 in its entirety for being a form of executive legislation, without a valid delegation of legislative authority.²⁷ The dispositive portion of its Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the Province of Pampanga, by:

1. Declaring that petitioner Province of Pampanga has the exclusive power and legal authority to issue permit to extract sand, gravel and other gravel resources within their territorial jurisdiction pursuant to Section 38 of R.A. 7[16]0 and applicable related laws such as R.A. 7942; and
2. Declaring the Treasurers of the Province of Pampanga, municipality or city concerned or their authorized deputies, shall have the sole legal authority to collect all local taxes, fees and charges in accordance to Section 170 R.A. 7160 and applicable related laws such as R.A. 7942.

SO ORDERED.²⁸

Executive Secretary Romulo and the Department of Environment and Natural Resources appealed.²⁹ On August 24, 2010, the Court of Appeals issued its Decision³⁰ reversing the Regional Trial Court Decision.

The Court of Appeals ruled that the provisions of Executive Order No. 224 that carried out the mandate of the Philippine Mining Act did not conflict with the provincial governor’s authority to issue permits as conferred by the Local Government Code.³¹

²⁴ Id. at 171–172.

²⁵ Id. at 171.

²⁶ Id. at 172.

²⁷ Id. at 173–174.

²⁸ Id. at 174.

²⁹ Id. at 436–463.

³⁰ Id. at 39–57.

³¹ Id. at 51–52.

Owing to the statutory construction rule that a special law prevails over a general law, the Court of Appeals held that the distinction carved out by the Philippine Mining Act—limiting the governor’s authority to issue permits for applications below five hectares and authorizing the Mines and Geosciences Bureau to issue permits for applications above five hectares—was a valid modification of the Local Government Code.³²

The Court of Appeals likewise emphasized that Executive Order No. 224 did not interfere with the provincial government’s tax collection efforts because the task force created under it would merely oversee the process.³³ It pointed out that the task force’s creation was in line with the Philippine Mining Act’s policy that the State is responsible for all mineral resources within the Philippines’ territory and exclusive economic zone, and is duty bound to enhance national growth while safeguarding the environment and the rights of affected communities.³⁴

The Court of Appeals also brushed aside the Province of Pampanga’s allegation that Executive Order No. 224 violated the equal protection clause, since there was a reasonable classification behind the assailed issuance.³⁵

Finally, the Court of Appeals reiterated that Executive Order No. 224 carried out the policy and objectives of the Philippine Mining Act, making it “a valid exercise of the rule-making power of the chief executive.”³⁶ The dispositive of the Court of Appeals Decision reads:

WHEREFORE, premises considered, the instant appeal is **granted**. Accordingly, the Decision of the Regional Trial Court, Branch 48 of San Fernando City, Pampanga dated May 21, 2004 is hereby **REVERSED AND SET ASIDE**.

SO ORDERED.³⁷ (Emphasis in the original)

The Province of Pampanga moved for reconsideration,³⁸ but its Motion was denied in the Court of Appeals’ February 22, 2011 Resolution.³⁹

In so ruling, the Court of Appeals repeated that the task force created under Executive Order No. 224 would do nothing more than oversee the collection of taxes and fees from the quarried construction materials. It maintained that the task force would benefit the province.⁴⁰

³² Id. at 51–53.

³³ Id. at 54.

³⁴ Id. at 54–55.

³⁵ Id. at 55.

³⁶ Id.

³⁷ Id. at 56.

³⁸ Id. at 58–76.

³⁹ Id. at 78–81.

⁴⁰ Id. at 79.

The Court of Appeals also justified the State control over Pampanga, Tarlac, and Zambales by citing the need to improve “the water flows of the river systems and ensure the integrity of the various protective dikes and infrastructures”⁴¹ which would be under the Department of Environment and Natural Resources’ control and management.⁴²

The Province of Pampanga filed this Petition for Review.⁴³ Petitioner maintains that Executive Order No. 224 is an *ultra vires* act, in that it is an invalid exercise of the president’s rule-making power because it amended the provisions of the Local Government Code and the Philippine Mining Act, as well as its Implementing Rules and Regulations.⁴⁴

Petitioner then asserts that Executive Order No. 224 encroached on its authority from the Constitution and the Local Government Code to raise and collect revenues and taxes.⁴⁵

Petitioner points out that the task force created under Executive Order No. 224 will not, as the Court of Appeals held, merely oversee or supervise the collection of taxes and fees; it empowered the Department of Environment and Natural Resources to take an active part in collecting quarry taxes and fees to the exclusion of the provincial government.⁴⁶

Finally, petitioner asserts that Executive Order No. 224 violated its right to equal protection since it only pertained to the quarry operations in the provinces of Pampanga, Tarlac, and Zambales, while other provinces which maintained their own quarry operations were not included.⁴⁷

Subsequently, respondents Executive Secretary Romulo and the Department of Environment and Natural Resources filed their Comment.⁴⁸

They state that the local governments’ power to impose taxes is not absolute, but is subject to guidelines and limitations provided by Congress.⁴⁹ The Philippine Mining Act, they say, limits the local government’s power to impose taxes, which Executive Order No. 224 merely implemented.⁵⁰

⁴¹ Id. at 80.

⁴² Id. at 79–80.

⁴³ Id. at 9–38.

⁴⁴ Id. at 23–25.

⁴⁵ Id. at 25–29.

⁴⁶ Id. at 29–31.

⁴⁷ Id. at 33–34.

⁴⁸ Id. at 350–382.

⁴⁹ Id. at 361.

⁵⁰ Id. at 360–362.

Respondents explain that Executive Order No. 224 recognized the authorities of both the provincial government and the Mines and Geosciences Bureau to issue quarry permits, and did not change the provincial governor's authority to issue permits for applications with areas below five hectares.⁵¹

Respondents further claim that Executive Order No. 224 complements the Local Government Code and the Philippine Mining Act by creating a task force.⁵² Allaying petitioner's fears, they point out that the task force will not infringe on petitioner's power to issue permits or collect fees and taxes, since it is only supervisory in nature.⁵³ They add that the task force would ensure that the taxes and fees due to petitioner would be paid and its share of the proceeds timely remitted to it.⁵⁴

Respondents then emphasize that being a special law, the Philippine Mining Act takes precedence over the Local Government Code, a general law. Thus, they say that the Code is deemed amended as regards the local government unit's authority to issue permits over applications for areas within its territorial jurisdiction exceeding five hectares.⁵⁵

Respondents highlight that under the Philippine Mining Act, the president may declare certain areas as mineral reservations if required by national interest.⁵⁶ Citing the Constitution, they add that the State "may directly undertake the exploration, development, utilization, and processing of mineral resources."⁵⁷

Finally, respondents stress that Executive Order No. 224 does not violate the equal protection clause because the provinces involved contain vast lahar deposits, which pose a danger to both life and property, while the other provinces with quarry operations do not have such hazards.⁵⁸

In its Reply,⁵⁹ petitioner contends that the Philippine Mining Act did not delimit the provincial governor's power to issue permits as provided by the Local Government Code, but merely supplemented it, as mandated by the Constitution.⁶⁰

Petitioner refutes respondents' allegation that Executive Order No. 224 is consistent with the Local Government Code's provisions enumerating

⁵¹ Id. at 365-369.

⁵² Id. at 368-369.

⁵³ Id. at 369-370.

⁵⁴ Id. at 378.

⁵⁵ Id. at 370-371.

⁵⁶ Id. at 373-375.

⁵⁷ Id. at 375.

⁵⁸ Id. at 379-380.

⁵⁹ Id. at 712-721.

⁶⁰ Id. at 712-713.

the limitations of a province's enforcement of forestry laws. It explains that the Code's provision refers to small-scale mining law, which involves the extraction of precious or valuable minerals, while the assailed executive order involves quarrying.⁶¹

Petitioner likewise refutes respondents' assertion that the task force was merely intended to oversee and supervise the sand and gravel permit operations. It notes that the wording of Executive Order No. 224 leaves no other interpretation than the exclusion of the Provincial Mining and Regulatory Board, amending both the Local Government Code and the Implementing Rules and Regulations of the Philippine Mining Act.⁶²

Petitioner adds that the appointment of the provincial governor as the task force's deputy team leader, with the Mines and Geosciences Bureau Regional Office acting as the team leader, encroaches on the provincial government's authority to issue quarry permits.⁶³ This setup created by Executive Order No. 224 interferes with petitioner's authority, it says. It adds that contrary to respondents' assertion, Executive Order No. 224 makes no mention of the word "oversee" as the function of the task force.⁶⁴

Finally, petitioner reiterates that Executive Order No. 224 violates the equal protection clause.⁶⁵

The sole issue for this Court's resolution is whether or not Executive Order No. 224 is valid and constitutional.

I

Executive Order No. 224, issued by President Macapagal-Arroyo on July 4, 2003, states:

RATIONALIZING THE EXTRACTION AND DISPOSITION OF SAND AND GRAVEL/LAHAR DEPOSITS IN THE PROVINCES OF PAMPANGA, TARLAC AND ZAMBALES

WHEREAS, Section 17(3)(iii) (sic) of Republic Act (R.A.) No. 7160, otherwise known as the Local Government Code of 1991, provides that a province shall, subject to the supervision, control and review of the Secretary of the Department of Environment and Natural Resources (DENR), enforce small-scale mining law and other laws on the protection of the environment;

⁶¹ Id. at 713-714.

⁶² Id. at 715-716.

⁶³ Id. at 716.

⁶⁴ Id. at 717-719.

⁶⁵ Id. at 719-720.

WHEREAS, Sections 4 and 8 of R.A. No. 79[42], otherwise known as the Philippine Mining Act of 1995, provides that the exploration, development, utilization and processing of mineral resources shall be under the full control and supervision of the State, that it may directly undertake such activities or it may enter into mineral agreements with contractors and that the DENR shall be the primary agency responsible for the conservation, management, development and proper use of the State's mineral resources;

WHEREAS, Executive Order (E.O.) No. 192 mandates that the DENR shall be the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources as may be provide (sic) for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos;

WHEREAS, Chapter 8 of R.A. [No.] 7942 further provides that industrial sand and gravel permit covering an area of more than five (5) hectares shall be issued by the Mines and Geosciences Bureau (MGB);

WHEREAS, it is necessary to protect and properly manage the utilization of the sand and gravel/lahar deposits of the provinces of Pampanga, Tarlac and Zambales to improve the water flows of its river systems, ensure the integrity of the various protective dikes and infrastructures, and thereby reduce risks to lives and properties;

WHEREAS, it is in the interest of the State that said sand and gravel/lahar deposits be properly utilized for the benefit of both local and the national governments and all concerned, with due regard to the environment.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Processing and Issuance of Mining Permits. The issuance of permit to extract and dispose of industrial sand and gravel/lahar deposits by the MGB shall be governed by Chapter 8 of R.A. No. 79[42].

The acceptance, processing and evaluation of applications for permits to extract industrial sand and gravel/lahar deposits in Pampanga, Tarlac and Zambales shall be undertaken through a Task Force composed of the MGB and the Provincial Governor.

SEC. 2. Creation of a Task Force. To ensure compliance by all permit holders with the terms and conditions of their permits, properly monitor the volume of extracted materials, and collect the proper taxes and fees from sand and gravel/lahar operations, a Task Force is hereby created for the purpose to be composed of the following:

- a. The [Mines and Geosciences Bureau] Regional Director, by himself or through his duly authorized representative – *Team Leader*
- b. The Provincial Governor, by himself or his duly authorized representative – *Deputy Team Leader*

SEC. 3. Functions and Authorities of the Task Force. The Task Force shall have the following functions:

- a. To accept, process and evaluate applications for permits to extract industrial sand and gravel/lahar deposits;
- b. To immediately monitor all reported illegal mining and quarrying operations and, for this purpose, set up as may be necessary checkpoints and other monitoring stations within the territorial jurisdiction of the province of Pampanga;
- c. To arrest mining/quarrying operators, and their agents and employees who willfully cooperate in the violation of provincial and national mining and environmental laws, and to confiscate and detain as evidence all instruments, objects and products of illegal mining/quarrying operations committed within the territorial jurisdiction of the Province;
- d. To immediately deliver confiscated and detained instruments, objects or products of illegal mining/quarrying operations to the nearest police station or area designated by the Task Force, which shall be properly receipted and shall not be released unless an instruction in writing to that effect is issued by the Office of the Governor; and
- e. Insofar as may be allowed by law, to assign and deputize a special contingent from the Philippine National Police specifically to assist the Task Force in the fulfillment of its functions.

SEC. 4. Collection of Taxes, Fees, and Charges. The Task Force shall be responsible for the collection of all applicable local taxes, fees and charges and shall, among others:

- a. Issue the required DR only to legitimate sand and gravel operators/permit holders and upon the issuance of Order of Payment by the PMRB;
- b. Ensure that the necessary taxes and fees due the local government are duly paid for prior to the issuance of any DRs;
- c. Assist in ensuring that the excise tax for mineral products is duly paid for prior to the issuance of such DRs; and
- d. Ensure that the appropriate share of the concerned Provinces, Municipalities and Barangays, as per Section 138 of the Local Government Code of 1991, are duly remitted fully and on time.
- e. Render an accounting to the Secretary of Environment and Natural Resources[.]

Excise tax payments shall likewise be immediately remitted and shared in accordance with law.

SEC. 5. Supplemental Orders, Rules and Regulations. The DENR, if deemed necessary, shall issue supplemental orders, rules and regulations to effectively implement this Order.

SEC. 6. Repealing Clause. All orders, issuances, rules and regulations, or parts thereof which are inconsistent with this Executive Order are hereby repealed or modified accordingly.

SEC. 7. Effectivity. This Executive Order shall take effect

immediately.⁶⁶ (Emphasis in the original)

Executive orders pertain to the president's acts that provide rules to implement or execute existing laws.⁶⁷ *Executive Secretary v. Southwing Heavy Industries, Inc.*⁶⁸ instructs that an administrative issuance, such as an executive order, must comply with the following requisites to be held valid:

- (1) Its promulgation must be authorized by the legislature;
- (2) It must be promulgated in accordance with the prescribed procedure;
- (3) It must be within the scope of the authority given by the legislature;
and
- (4) It must be reasonable.⁶⁹

For the first requisite, Executive Order No. 224 was issued to carry out the Philippine Mining Act's provisions, which grant the State full control and supervision over mineral resources.⁷⁰ Section 4 of the law states:

SECTION 4. Ownership of Mineral Resources. Mineral resources are owned by the State and the exploration, development, utilization, and processing thereof shall be under its full control and supervision. The State may directly undertake such activities or it may enter into mineral agreements with contractors.

The State shall recognize and protect the rights of the indigenous cultural communities to their ancestral lands as provided for by the Constitution.

This finds basis in Article XII, Section 2⁷¹ of the Constitution which

⁶⁶ Executive Order No. 224 (2003), <<https://www.officialgazette.gov.ph/2003/07/04/executive-order-no-224-s-2003/>> (last accessed on January 11, 2021).

⁶⁷ ADM. CODE, Book III, Title I, Ch. 2, sec. 2 provides:

SECTION 2. *Executive Orders.* — Acts of the President providing for rules of a general or permanent character in implementation or execution of constitutional or statutory power shall be promulgated in executive orders.

⁶⁸ 518 Phil. 103 (2006) [Per J. Ynares-Santiago, En Banc]

⁶⁹ Id. at 117 citing CARLO L. CRUZ, PHILIPPINE ADMINISTRATIVE LAW 41 (2003 ed.).

⁷⁰ *Rollo*, pp. 373–375.

⁷¹ CONST., art. XII, sec. 2 states:

SECTION 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens,

declared all natural resources, including minerals, to be owned by the State.

For the second requisite, official acts by the government branches are presumed to be valid, absent strong evidence showing otherwise. Thus, the presumption is that Executive Order No. 224 was promulgated in accordance with the prescribed procedure.⁷²

To hurdle the third requisite, Executive Order No. 224 must not be *ultra vires*, or an act which goes beyond the limits of its delegated legislative authority. Here, petitioner assails the issuance for allegedly supplanting portions of the Local Government Code and the Philippine Mining Act, along with its Implementing Rules and Regulations.⁷³

Petitioner is mistaken.

The principle of separation of powers dictates that each of the three government branches has exclusive cognizance of matters falling within its constitutionally allocated sphere.⁷⁴

The power to enact laws is primarily lodged with the legislature, which is generally prohibited from delegating its legislative functions and duties and relieving itself from its mandate under the Constitution.

However, the rule is not absolute. Legislative power may be validly delegated to the president,⁷⁵ which power is not actual lawmaking, but is only limited “to fill[ing] in the details in the execution, enforcement or administration of a law.”⁷⁶ To be a valid delegated legislative power, it must not supplant or modify existing laws, including the Constitution, as the power to create, change, or abolish laws is exclusive to the legislature and any usurpation of such power renders the issuance invalid.⁷⁷

as well as cooperative fish farming, with priority to subsistence fishermen and fish-workers in rivers, lakes, bays, and lagoons.

The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local scientific and technical resources.

The President shall notify the Congress of every contract entered into in accordance with this provision, within thirty days from its execution.

⁷² *Mangune v. Ermita*, 796 Phil. 52, 67 (2016) [Per J. Jardeleza, En Banc] citing *Executive Secretary v. Southwing Heavy Industries, Inc.*, 518 Phil. 103 (2006) [Per J. Ynares-Santiago, En Banc].

⁷³ *Rollo*, pp. 24–25.

⁷⁴ *Republic v. Bayao*, 710 Phil. 279, 297 (2013) [Per J. Leonen, Third Division] citing *Santiago v. Guingona*, 359 Phil. 276, 284 (1998) [Per J. Panganiban, En Banc].

⁷⁵ *Camarines Norte Electric Cooperative, Inc. v. Torres*, 350 Phil. 315, 331 (1998) [Per J. Davide, Jr., En Banc].

⁷⁶ *Pelaez v. Auditor General*, 122 Phil. 965, 974 (1965) [Per J. Concepcion, En Banc].

⁷⁷ *Id.* at 68.

*Pelaez v. Auditor General*⁷⁸ teaches that in exercising the delegated legislative power, the executive must be guided by the standards established in the law set to be enforced to prevent the executive from making or unmaking the law, the very danger sought to be prevented by the principle of separation of powers:

Indeed, without a statutory declaration of policy, the delegate would, in effect, make or formulate such policy, which is the essence of every law; and, without the aforementioned standard, there would be no means to determine, with reasonable certainty, whether the delegate has acted within or beyond the scope of his authority. *Hence, he could thereby arrogate upon himself the power, not only to make the law, but, also — and this is worse — to unmake it, by adopting measures inconsistent with the end sought to be attained by the Act of Congress, thus nullifying the principle of separation of powers and the system of checks and balances, and, consequently undermining the very foundation of our Republican system.*⁷⁹ (Emphasis supplied, citation omitted)

Thus, the president's delegated legislative power, or quasi-legislative power, is not absolute. The president can only adopt rules and regulations to carry out the provisions of law and implement legislative policy,⁸⁰ with the further limitation that the administrative or executive acts must not be contrary to laws or the Constitution.⁸¹

Nonetheless, the president also exercises an inherent ordinance-making⁸² prerogative, which forms part of the power of executive control.

⁷⁸ 122 Phil. 965 (1965) [Per J. Concepcion, En Banc].

⁷⁹ Id. at 974–975.

⁸⁰ *Executive Secretary v. Southwing Heavy Industries, Inc.*, 518 Phil. 103, 117 (2006) [Per J. Ynares-Santiago, En Banc] citing CARLO L. CRUZ, PHILIPPINE ADMINISTRATIVE LAW 24 (2003 ed.).

⁸¹ CIVIL CODE, art. 7 provides:

ARTICLE 7. Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.

When the courts declared a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern.

Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution.

⁸² ADM. CODE, Book III, Title 1, Ch. 2, secs. 6–7 states:

SECTION 2. *Executive Orders.* — Acts of the President providing for rules of a general or permanent character in implementation or execution of constitutional or statutory powers shall be promulgated in executive orders.

SECTION 3. *Administrative Orders.* — Acts of the President which relate to particular aspect of governmental operations in pursuance of his duties as administrative head shall be promulgated in administrative orders.

SECTION 4. *Proclamations.* — Acts of the President fixing a date or declaring a status or condition of public moment or interest, upon the existence of which the operation of a specific law or regulation is made to depend, shall be promulgated in proclamations which shall have the force of an executive order.

SECTION 5. *Memorandum Orders.* — Acts of the President on matters of administrative detail or of subordinate or temporary interest which only concern a particular officer or office of the Government shall be embodied in memorandum orders.

SECTION 6. *Memorandum Circulars.* — Acts of the President on matters relating to internal administration, which the President desires to bring to the attention of all or some of the departments, agencies, bureaus or offices of the Government, for information or compliance, shall be embodied in memorandum circulars.

SECTION 7. *General or Special Orders.* — Acts and commands of the President in his capacity as Commander-in-Chief of the Armed Forces of the Philippines shall be issued as general or special

*ABAKADA Guro Party List v. Purisima*⁸³ expounds:

Apart from whatever rule-making power that Congress may delegate to the President, the latter has inherent ordinance powers covering the executive branch as part of the power of executive control (“The President shall have control of all the executive departments, bureaus and offices. . .” Section 17, Article VII, Constitution.). By its nature, this ordinance power does not require or entail delegation from Congress. Such faculty must be distinguished from the authority to issue implementing rules to legislation which does not inhere in the presidency but instead, as explained earlier, is delegated by Congress.⁸⁴

In differentiating the delegated legislative power from the ordinance-making power, *ABAKADA Guro Party List* is enlightening. It explains that under the delegated legislative authority, the power to issue implementing rules creates rights and obligations that affect the public at large, while the ordinance-making power is the authority to issue “intra-branch orders and instructions or internal rules for the executive branch,”⁸⁵ which do not bind the public. This is why implementing rules and regulations are subject to the rule of publication for their effectivity, while internal rules or instructions in the executive department are not.⁸⁶

As shown below, in no way is Executive Order No. 224 an *ultra vires* act. It is a valid exercise of the president’s ordinance-making power.

I (A)

To justify the State’s supervision and control over the local government units, respondents point to the first Whereas clause of Executive Order No. 224, which refers to the Department of Environment and Natural Resource’s power of supervision and control over the enforcement of environmental protection laws, as provided in the Local Government Code:

WHEREAS, Section 17(3)(iii) (sic) of Republic Act (R.A.) No. 7160, otherwise known as the Local Government Code of 1991, provides that a province shall, subject to the supervision, control and review of the Secretary of the Department of Environment and Natural Resources (DENR), enforce small-scale mining law and other laws on the protection of the environment[.] (Emphasis in the original)

Section 17 of the Local Government Code provides the essential functions of the different local government units, among which is the

orders.

⁸³ 584 Phil. 246 (2008) [Per J. Corona, En Banc].

⁸⁴ Id. at 289. *See* fn. no. 63.

⁸⁵ Id.

⁸⁶ Id.

enforcement of forestry, small-scale mining, and other environmental laws:

SECTION 17. *Basic Services and Facilities.* – (a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated herein.

(b) Such basic services and facilities include, but are not limited to, the following:

....

(3) For a Province:

....

(iii) Pursuant to national policies and subject to supervision, control and review of the DENR, enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on the protection of the environment; and mini-hydroelectric projects for local purposes[.]

The Philippine Mining Act of 1995 is an environmental protection law. This already justifies the State's supervision, control, and review of the concerned local government units' compliance with and enforcement of existing regulations on quarrying-related activities.

Section 138 of the Local Government Code empowers provincial governments to issue permits to quarry operators and to collect taxes on extracted quarry resources within their respective territorial jurisdictions:

SECTION 138. Tax on Sand, Gravel and Other Quarry Resources.
— *The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.*

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the sangguniang panlalawigan.

The proceeds of the tax on sand, gravel and other quarry resources shall be distributed as follows:

- (1) Province - Thirty percent (30%);
- (2) Component City or Municipality where the sand, gravel, and other quarry resources are extracted - Thirty percent (30%); and
- (3) Barangay where the sand, gravel, and other quarry resources are extracted - Forty percent (40%). (Emphasis supplied)

To be clear, the Philippine Mining Act, a later law, modified the Local Government Code by confining the provincial government's authority to issue quarry permits to applications for areas below five hectares and empowering the Department of Environment and Natural Resources, through the Mines and Geosciences Bureau, to issue permits to applications for areas above five hectares. Section 43, 46, and 47 of the Philippine Mining Act provides:

SECTION 43. *Quarry Permit.* — Any qualified person may apply to the provincial/city mining regulatory board for a quarry permit on privately-owned lands and/or public lands for building and construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles and building bricks, pumice, perlite and other similar materials that are extracted by quarrying from the ground. The *provincial governor shall grant the permit* after the applicant has complied with all the requirements as prescribed by the rules and regulations.

The maximum area which a qualified person may hold at any one time shall be five hectares (5 has.): Provided, That in large-scale quarry operations involving cement raw materials, marble, granite, sand and gravel and construction aggregates, a qualified person and the government may enter into a mineral agreement as defined herein.

A quarry permit shall have a term of five (5) years, renewable for like periods but not to exceed a total term of twenty-five (25) years. No quarry permit shall be issued or granted on any area covered by a mineral agreement or financial or technical assistance agreement.

....

SECTION 46. *Commercial Sand and Gravel Permit.* — Any qualified person may be granted a permit by the provincial governor to extract and remove sand and gravel or other loose or unconsolidated materials which are used in their natural state, without undergoing processing from an area of not more than five hectares (5 has.) and in such quantities as may be specified in the permit.

SECTION 47. *Industrial Sand and Gravel Permit.* — Any qualified person may be granted an industrial sand and gravel permit by the *Bureau* for the extraction of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing covering *an area of more than five hectares (5 has.)* at any one time. The permit shall have a term of five (5) years, renewable for a like period but not to exceed a total term of twenty-five (25) years. (Emphasis supplied)

Through its repealing and amending clause,⁸⁷ the Philippine Mining Act amended the Local Government Code's provisions by limiting the provincial government's authority to issue permits only to quarry applications covering areas less than five hectares.

In line with this, Section 1 of Executive Order No. 224 refers to permits for the extraction of industrial sand and gravel or lahar deposits:

SECTION 1. Processing and Issuance of Mining Permits. The issuance of permit to extract and dispose of *industrial sand and gravel/lahar deposits* by the MGB shall be governed by Chapter 8 of R.A. No. 79[42].

The acceptance, processing and evaluation of applications for permits to extract industrial sand and gravel/lahar deposits in Pampanga, Tarlac and Zambales shall be undertaken through a Task Force composed of the MGB and the Provincial Governor. (Emphasis supplied)

Section 1 thus implies that the task force is only empowered to act on quarry applications for areas above five hectares, respecting the provincial government's authority to act on applications for areas below five hectares and validly implementing the provisions of the Philippine Mining Act. As the Court of Appeals has found:

In the case at bar, We find that the provisions of E.O. No. 224 carrying out the mandate of R.A. No. 7942 are not in conflict with the specific provision of Section 138 of R.A. No. 7160 conferring upon the provincial governor the exclusive authority to issue permit for the extraction and removal of sand and gravel. In fact, Section 46 of R.A. No. 7942 specifically affirms this authority of the provincial governor to issue permit for the extraction and removal of sand and gravel or other loose or unconsolidated materials provided that the area covers not more than five (5) hectares. Section 47 of the said statute, on the other hand, simply supplements that in the extraction of sand and gravel covering more than five hectares, it is the Mines and Geosciences Bureau which has the authority to grant permit thereof.⁸⁸

The laws make it clear that State control over the local government units' compliance with and enforcement of quarrying-related activities is valid. In any case, Executive Order No. 224 simply reinforces the Philippine Mining Act, and is in no way an *ultra vires* act.

⁸⁷ Republic Act No. 7942 (1995), sec. 115 states:
SECTION 115. *Repealing and Amending Clause.* — All laws, executive orders, presidential decrees, rules and regulations or parts thereof which are inconsistent with any of the provisions of this Act are hereby repealed or amended accordingly.

⁸⁸ *Rollo*, pp. 51-52.

I (B)

Similarly, nothing in the entirety of Executive Order No. 224 suggests that it disrespected the local government units' constitutionally mandated fiscal autonomy. Respondents are correct that the task force's role is only as a supervisory mechanism, a function that would even inure to the benefit of the local government units concerned.

The local government units' power to impose and collect taxes finds basis in Article X, Section 5 of the Constitution:

SECTION 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

The Local Government Code's enactment in 1991 embodied the basic policy of local autonomy. A crucial part of local autonomy is fiscal autonomy,⁸⁹ which refers to the local government units' power to "create [their] own sources of revenues and to levy taxes, fees, and charges"⁹⁰ that shall then accrue exclusively to them. Fiscal autonomy also includes their power to allocate resources to align with their own priorities.⁹¹

Section 138 of the Local Government Code empowered a province to levy and collect not more than 10% of the fair market value of the quarry resources extracted from its territorial jurisdiction. It states in part:

SECTION 138. *Tax on Sand, Gravel and Other Quarry Resources.*
— The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

Meanwhile, Section 44 of the Philippine Mining Act, in relation to Section 105 of its Implementing Rules and Regulations, issued by the Department of Environment and Natural Resources, directs the city or municipal treasurer to receive the quarry fees and taxes:

SECTION 44. *Quarry Fee and Taxes.* — A permittee shall, during the term of his permit, pay a quarry fee as provided for under the implementing rules and regulations. The permittee shall also pay the

⁸⁹ *Pimentel, Jr. v. Hon. Aguirre*, 391 Phil. 84, 102–103 (2000) [Per J. Panganiban, En Banc].

⁹⁰ CONST., art. X, sec. 5.

⁹¹ *Mandanas v. Ochoa*, 835 Phil. 97 (2018) [Per Bersamin, En Banc].

excise tax as provided by pertinent laws.⁹²

SECTION 105. *Quarry Fee and Taxes to be Paid.* — All permit holders except for gratuitous permits under this Chapter shall pay the required quarry fees (Annex 4-A) to the *city/municipal treasurer* concerned. Likewise, an excise tax in mineral products as provided for in Republic Act No. 7729 amending Section 151 (a) of the National Internal Revenue Code shall be paid upon removal thereof to the Government thru the concerned agent or representative of the Bureau of Internal Revenue.⁹³ (Emphasis supplied)

Section 4 of Executive Order No. 224 is not repugnant to the Philippine Mining Act or its Implementing Rules and Regulations. Section 4 of Executive Order No. 224 states:

SEC. 4. Collection of Taxes, Fees, and Charges. The Task Force shall be responsible for the collection of all applicable local taxes, fees and charges and shall, among others:

- a. Issue the required DR only to legitimate sand and gravel operators/permit holders and upon the issuance of Order of Payment by the PMRB;
- b. Ensure that the necessary taxes and fees due the local government are duly paid for prior to the issuance of any DRs;
- c. Assist in ensuring that the excise tax for mineral products is duly paid for prior to the issuance of such DRs; and
- d. Ensure that the appropriate share of the concerned Provinces, Municipalities and Barangays, as per Section 138 of the Local Government Code of 1991, are duly remitted fully and on time.
- e. Render an accounting to the Secretary of Environment and Natural Resources[.]

Excise tax payments shall likewise be immediately remitted and shared in accordance with law. (Emphasis in the original)

Section 4 empowered the task force to perform the following: (1) collect applicable quarry taxes, fees, and charges; (2) ensure that proper taxes and fees are paid before any delivery receipt is issued; (3) ensure that the appropriate shares of the concerned local government units are fully and timely remitted; and (4) render an accounting with the Environment Secretary.

Nothing in the wording of Section 4 suggests that the task force exercises control over the provincial government. Executive Order No. 224 also does not authorize the task force to impose its own set of rules or regulations over the local government unit when it comes to the collection of quarry taxes, fees, and charges. Section 4 is merely a supervisory mechanism, as seen in how it directs the task force to oversee the collection and ensure that the appropriate shares are remitted to the local government

⁹² Republic Act No. 7942 (1995), sec. 44.

⁹³ Implementing Rules and Regulations of the Philippine Mining Act (1995), sec. 105.

units concerned. Again, the Court of Appeals aptly observed:

As explained by herein appellant, the creation of task force under E.O. No. 224 would merely oversee the collection of all necessary taxes and fees that may be derived from the extraction of industrial sand and gravel in the territorial jurisdiction of the concerned local government unit. Needless to say, such supervision and overseeing in the collection of taxes and fees would even work to appellee's advantage.⁹⁴

This Court also notes that the Philippine Mining Act by itself does not empower the city or municipal treasurers to collect the quarry fees and taxes, as it was only its Implementing Rules and Regulations that designated these officials as collection agents. Thus, Section 4 of Executive Order No. 224, which delegated the collection of quarry taxes and fees to the task force, can be seen as an amendment to the Implementing Rules and Regulations.

The task force's oversight function is in line with the president's power of general supervision over local governments,⁹⁵ to ensure that local programs are aligned with national goals.⁹⁶ *Province of Negros Occidental v. The Commissioners, Commission on Audit*⁹⁷ differentiated between general supervision and executive control as follows:

The President's power of general supervision means the power of a superior officer to see to it that subordinates perform their functions according to law. This is distinguished from the President's power of control which is the power to alter or modify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the President over that of the subordinate officer. The power of control gives the President the power to revise or reverse the acts or decisions of a subordinate officer involving the exercise of discretion.⁹⁸ (Citations omitted)

This general supervision over local government units likewise cannot be said to infringe on the local governments' constitutionally protected right of fiscal autonomy.

The task force's mandate of overseeing the collection of taxes does not violate local fiscal autonomy. The power to impose quarry fees and taxes remains with the local government units. Likewise, the full income due from those sources will ultimately find its way to the coffers of the concerned local government units.

⁹⁴ *Rollo*, p. 54.

⁹⁵ CONST., art. X, sec. 4 provides:

SECTION 4. The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions.

⁹⁶ *Mandanas v. Ochoa*, 835 Phil. 97 (2018) [Per Bersamin, En Banc].

⁹⁷ 646 Phil. 50 (2010) [Per J. Carpio, En Banc].

⁹⁸ *Id.* at 61.

II

Finally, going back to the requisites for the validity of an administrative issuance, the fourth requisite demands that the administrative issuance must be reasonable.

Executive Order No. 224 is a valid and reasonable exercise of the president's inherent ordinance-making power.⁹⁹ It provided the necessary rules for the concerned agency to execute the Philippine Mining Act in relation to the quarry industry of the provinces affected by Mt. Pinatubo's eruption, without going beyond the bounds of the law it meant to implement.

It is a basic precept in statutory construction that a law should be construed in harmony and not in violation of the Constitution.¹⁰⁰ Executive acts enjoy the presumption of constitutionality;¹⁰¹ thus, if they are susceptible to two or more constructions, the one that would not be in conflict with what is ordained in the Constitution is preferred.

The presumption of constitutionality is rooted in "the doctrine of separation of powers which enjoins upon each department a becoming respect for the acts of the other departments."¹⁰² For the judiciary to justify the nullification of any legislative or executive act, it must be shown that the statute or issuance clearly violates the Constitution.

There was no such palpable violation of the Constitution here.

WHEREFORE, the Petition is **DENIED**. The assailed August 24, 2010 Decision and February 22, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 83341 are **AFFIRMED**.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

⁹⁹ ADM. CODE, Book III, Title 1, Ch. 2, sec. 2 provides:

SECTION 2. *Executive Orders*. – Acts of the President providing rules of a general or permanent character in implementation or execution of constitutional or statutory powers shall be promulgated in executive orders.

¹⁰⁰ *Resident Marine Mammals of the Protected Seascape Tañon Strait v. Reyes*, 758 Phil. 724 (2015) [Per J. Leonardo-De Castro, En Banc].

¹⁰¹ *Garcia v. Executive Secretary*, 286 Phil. 322, 333 (1992) [Per J. Feliciano, En Banc].

¹⁰² *Garcia v. Executive Secretary*, 281 Phil. 572, 579–580 (1991) [Per J. Cruz, En Banc].

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

Please see Concurring Opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

Please see Concurring Opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice
RAMON PAUL L. HERNANDO
Associate Justice

Please see Concurring Opinions

ROSMARI D. CARANDANG
Associate Justice
AMY C. LAZARO-JAVIER
Associate Justice
HENRI JEAN PAUL B. INTING
Associate Justice
RODIL V. ZALAMEDA
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MARIO V. LOPEZ
Associate Justice
EDGARDO L. DELOS SANTOS
Associate Justice
SAMUEL H. GAERLAN
Associate Justice
RICARDO R. ROSARIO
Associate Justice
JHOSEP V. LOPEZ
Associate Justice

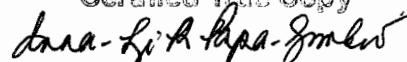
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.



DIOSDADO M. PERALTA
Chief Justice

Certified True Copy



ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court