



Republic of the Philippines

Supreme Court

Manila

FIRST DIVISION

GAW CHIN TY, VICENTE GAW CHUA, ROBERT GAW CHUA, MANUEL GAW CHUA, ALEJANDRO GAW CHUA, MARIO GAW CHUA, and JACQUELINE GAW CHUA,

Petitioners,

- versus -

ANTONIO GAW CHUA,

Respondent.

G.R. No. 212598

Present:

GESMUNDO, C.J., Chairperson,  
CAGUIOA,  
LAZARO-JAVIER,  
LOPEZ, M., and  
LOPEZ, J., JJ.

Promulgated:

SEP 29 2021

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DECISION

LOPEZ, J., J.:

This is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated September 27, 2013 and the Resolution<sup>3</sup> dated May 12, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 99876, which reversed and set aside the Decision<sup>4</sup> dated June 14, 2012 of the Regional Trial Court (RTC) of Malabon granting the petition to annul the new owner's duplicate of Transfer Certificate of Title (TCT) No. 420866 in Civil Case No. 5880-MN.

<sup>1</sup> Rollo, pp. 8-27.

<sup>2</sup> Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Hakim S. Abdulwahid (ret.) and Edwin D. Sorongon; *id.* at 30-37.

<sup>3</sup> *Id.* at 84.

<sup>4</sup> Penned by Judge Celso R. L. Magsino, Jr.; *id.* at 154-156.

### *The Antecedents*

Spouses Gaw Chin Ty and Chua Giok See purchased a parcel of land covered by TCT No. 420866.<sup>5</sup> By their custom, the spouses registered the subject property in the name of their first-born son, herein respondent Antonio Gaw Chua (*Antonio*). To protect the rights of their other children over the subject property, the spouses entrusted the original owner's duplicate copy of TCT No. 420866 to their second eldest son, one of the herein petitioners, Vicente Gaw Chua (*Vicente*).<sup>6</sup>

Claiming that Antonio lost the original owner's duplicate copy of TCT No. 420866,<sup>7</sup> he filed a verified petition for the issuance of a new/reconstituted owner's duplicate copy of the same title with the RTC.<sup>8</sup>

On August 15, 2000, the RTC rendered a Decision<sup>9</sup> granting the petition and declaring the owner's duplicate copy of TCT No. 420866 as null and void. Pursuant to the Decision, the Registry of Deeds of Malabon City (*RD*) issued a new/reconstituted owner's duplicate copy of TCT No. 420866 in the name of Antonio.<sup>10</sup>

On August 27, 2001, Gaw Chin Ty and her children with Chua Giok See,<sup>11</sup> namely: (i) Vicente, (ii) Robert Gaw Chua; (iii) Manuel Gaw Chua; (iv) Alejandro Gaw Chua; (v) Mario Gaw Chua; and (vi) Jacqueline Gaw Chua<sup>12</sup> (*petitioners*) filed a Notice of Adverse Claim before the RD. Their adverse claim was inscribed on August 31, 2001 as Entry No. 45910.<sup>13</sup>

On April 21, 2009, Antonio filed a complaint against Vicente for physical injury in Barangay 250, Zone 23, District 2, Manila City.<sup>14</sup> Antonio and Vicente attended the *barangay* conciliation, which centered on the subject property, instead of the complaint for physical injury. Since they could not resolve their issues, the *barangay* conciliation failed and the Office of the *Lupon Tagapamayapa* of the *barangay* issued a Certificate to File Action.<sup>15</sup>

On June 24, 2009, Antonio filed a petition for cancellation of the adverse claim inscribed on TCT No. 420866 before RTC, docketed as LRC Case No. 1075-MN.<sup>16</sup> The RTC ordered the parties to undergo mediation

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<sup>5</sup> *Id.* at p. 11.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 12.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Deceased.

<sup>12</sup> *Rollo*, p. 154.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 12.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

proceedings, pursuant to Section 2(a), Rule 18 of the Rules of Court.<sup>17</sup> However, the mediation proceedings were unsuccessful and the case was set for pre-trial.<sup>18</sup>

Independently, Antonio filed a criminal complaint against Vicente for slight physical injury before the Metropolitan Trial Court (*MeTC*), docketed as Criminal Case No. 455324-CR.<sup>19</sup>

On September 23, 2009, petitioners filed a petition to annul the new/reconstituted owner's duplicate copy of TCT No. 420866 before the same RTC. The petitioners alleged that the original owner's duplicate copy of TCT No. 420866 is **not** lost but merely in their possession, and that Antonio knew this fact.<sup>20</sup> They also alleged that the TCT was registered in the name of Antonio merely in trust for the family because such practice was customary for Filipino-Chinese families. In fact, in order to protect their children's rights, Gaw Chin Ty and Chua Giok See entrusted the original owner's duplicate copy to Vicente.<sup>21</sup>

The case on the petition to annul the new/reconstituted owner's duplicate copy of TCT No. 420866 was set for pre-trial.<sup>22</sup> Upon manifestation of the petitioners' counsel that the parties just came from a court-annexed mediation in LRC Case No. 1075-MN which eventually failed, the trial court then proceeded in the conduct of the pre-trial.<sup>23</sup>

During the pre-trial conference, Vicente presented the owner's duplicate copy of TCT 420866. Antonio acknowledged the existence of the document but claimed that it was spurious or fake.<sup>24</sup> Since the owner's duplicate copy of TCT No. 420866 enjoyed the presumption of regularity in its issuance by the RD, it was incumbent upon Antonio to prove his claim that it was spurious or fake.<sup>25</sup> Thus, the RTC modified the order of trial and allowed Antonio to rebut the presumption.<sup>26</sup> However, after several trial dates, Antonio failed to present evidence rebutting this presumption.

On June 14, 2012, the RTC rendered its Decision<sup>27</sup> holding that Antonio himself admitted that the owner's duplicate copy of TCT No. 420866 was in the possession of Vicente, disposing as follows:

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17 *Id.*  
18 *Id.*  
19 *Id.* at 15.  
20 *Id.* at 16.  
21 *Id.*  
22 *Id.*  
23 *Id.* at 17.  
24 *Id.*  
25 *Id.*  
26 *Id.*  
27 *Id.* at 209-246.

**WHEREFORE**, the petition is **GRANTED**. The reconstituted owner's duplicate copy of Transfer Certificate of Title No. 420866 issued to respondent Antonio Chua is declared null and void.

**SO ORDERED.**<sup>28</sup>

The RTC also denied the motion for reconsideration filed by Antonio.<sup>29</sup>

Antonio appealed before the CA, which issued the Decision<sup>30</sup> dated September 27, 2013 reversing and setting aside the RTC Decision. The dispositive portion of the CA's decision reads:<sup>31</sup>

Considering that the lower court failed to take notice of the impediment imposed under Article 151 of the Family Code, the same constituting a jurisdictional defect. [sic] We deem it necessary [sic] to delve into a discussion of the other errors bearing on the case.

WHEREFORE, premises considered, the appeal is hereby **GRANTED**. The Decision dated June 14, 2012 of the Regional Trial Court 74, Malabon City in Civil Case No. 5880-MN is **REVERSED and SET ASIDE**. The Petition to Annul Reconstituted Transfer Certificate of Title No. 420866 filed by the petitioners is **DISMISSED WITHOUT PREJUDICE**.

**SO ORDERED.**

The CA likewise denied the motion for reconsideration of the petitioners.<sup>32</sup>

Hence, this petition.

### *The Issues*

#### I.

WHETHER THE PETITION TO ANNUL THE NEW/OWNER'S DUPLICATE OF TCT NO. 420866 SHOULD BE DISMISSED ON THE GROUND OF FAILURE TO ALLEGE COMPLIANCE WITH, OR FAILURE TO COMPLY WITH, A CONDITION PRECEDENT FOR FILING THE PETITION;<sup>33</sup> AND,

<sup>28</sup> *Id.* at 156. It must be clarified that the owner's duplicate copy of TCT No. 420866 that was issued by the RTC was not a reconstituted title, but a replacement of the lost owner's duplicate of the TCT. A reconstituted title is issued only for lost or destroyed original certificates of title in the offices of the Register of Deeds, pursuant to Section 110 of P.D. 1529.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 30-37.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 20.

## II.

COROLLARY TO THE ABOVE, WHETHER THE ISSUE THAT A NEW/OWNER'S DUPLICATE OF TCT CAN CO-EXIST WITH A VALID AND EXISTING PREVIOUS OWNER'S DUPLICATE COPY OF A TCT BE THE SUBJECT OF COMPROMISE.<sup>34</sup>

As both issues are essentially related, We shall discuss them jointly.

The petitioners argue, in substance, that mere failure to allege compliance with a condition precedent for filing the petition to annul the new/owner's duplicate copy of TCT No. 420866 is not a ground for the dismissal of an action. Dismissal is warranted only if there is actual failure to comply with the condition precedent, and not if there is mere failure to allege compliance with a condition precedent. "Failure to comply" is different from mere "failure to allege." Moreover, failure to comply with a condition precedent is not a jurisdictional defect, but a mere procedural defect, and the procedural issue must not prevail over the ultimate and substantive issue of this case (which is the validity of the new/ owner's duplicate copy of TCT No. 420866). In this case, the parties complied with the condition precedent through: (i) the court-annexed mandatory mediation in the LRC case, and (ii) the barangay conciliation involving the complaint for physical injury, where the issue of the validity of the new/ owner's duplicate copy of TCT No. 420866 was raised.<sup>35</sup>

Moreover, petitioners also argue that the new owner's duplicate copy of TCT No. 420866 cannot co-exist with the previous owner's duplicate copy of the same title (which in fact was not lost at the time of the issuance of the new owner's duplicate title), and such cannot be the subject of a compromise. Since it is not a subject of compromise, there was no need for prior compliance with Article 151 of the Family Code as a condition precedent for filing the petition to annul the new/owner's duplicate title.<sup>36</sup>

The respondent argues, in substance, that there was no allegation in the petition to annul the new/owner's duplicate title about earnest efforts exerted to reach a settlement or compromise between members of the same family before filing the petition in the RTC. Moreover, the (i) court-annexed mandatory mediation in the LRC case and (ii) barangay conciliation involving the complaint for physical injury, where the issue of the validity of the new/reconstituted title was raised, are not sufficient compliance with the condition precedent required under Article 151 of the Family Code.<sup>37</sup>

Notably, the respondent also raised other arguments in his *Comment* beyond the narrowly drawn issue at hand. He stated that the case for the

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<sup>34</sup>*Id.*<sup>35</sup>*Id.* at 21-24.<sup>36</sup>*Id.* at 25-26.<sup>37</sup>*Id.* at 177-179.

petition to annul the new/owner's duplicate title in the RTC involved issues pertaining to the ownership of the parcel of land. Respondent claimed that the land was not held by him merely in trust, and that he was the absolute owner of the said property. Finally, he adds that a petition to annul the new/owner's duplicate title is not the proper remedy to resolve the question of ownership. Thus, it should be dismissed.<sup>38</sup>

### *Our Ruling*

The petition is meritorious.

Preliminarily, We note that this case is not the proper venue to determine or resolve the issue of ownership. The issue is narrowly drawn from the following simple facts: *First*, the registered owner of the land filed a petition for issuance of a new owner's duplicate which was allegedly lost.<sup>39</sup> *Second*, the registered owner successfully obtained the new owner's duplicate title.<sup>40</sup> *Third*, at the time of the reconstitution, it appeared that the owner's duplicate title was not in fact lost, but in the possession of a person other than the registered owner.<sup>41</sup> *Fourth*, the mother and siblings of the registered owner filed a petition to annul the new/owner's duplicate title, claiming that the same was not in fact lost.<sup>42</sup> This document was presented during pre-trial.<sup>43</sup> *Fifth*, the registered owner on pre-trial admitted the existence of the document but disputed the authenticity thereof.<sup>44</sup> On trial, he failed to prove that it is spurious or fake. *Sixth*, the RTC granted the petition to annul the new/owner's duplicate title, on the basis of the registered owner's failure to prove that the owner's duplicate title is spurious or fake.<sup>45</sup> *Seventh*, the CA reversed the RTC, stating that the petition to annul failed to comply with the condition precedent for filing the case.<sup>46</sup>

From the foregoing, the question at hand is simple: *should the petition be dismissed on the ground of failure to comply with the condition precedent for filing the case?*

Section 1(j) of Rule 16<sup>47</sup> of the Rules of Court provides:

Section 1. Grounds. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be

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<sup>38</sup> *Id.* at 170-177.

<sup>39</sup> *Id.* at 12.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* 16.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 17.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 18.

<sup>46</sup> *Id.*

<sup>47</sup> The prevailing provision at the time of the filing of the petition to annul the new/owner's duplicate title.

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made on any of the following grounds:

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(j) That a condition precedent for filing the claim has not been complied with.

In relation to Section 1(j) of Rule 16, Article 151 of the Family Code provides a condition precedent for filing a claim, thus:

Art. 151. No suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made, but that the same have failed. If it is shown that no such efforts were in fact made, the same case must be dismissed.

This rule shall not apply to cases which may not be the subject of compromise under the Civil Code.

In relation to questions that may not be the subject of compromise, Article 2035 of the New Civil Code provides:

**Article 2035.** No compromise upon the following questions shall be valid:

- (1) The civil status of persons;
- (2) The validity of a marriage or a legal separation;
- (3) Any ground for legal separation;
- (4) Future support;
- (5) The jurisdiction of courts;
- (6) Future legitime.

The petition to annul the new/owner's duplicate title was among members of the same family. The petitioners are the mother and siblings of the respondent who, being the registered owner, obtained the new/owner's duplicate title. The petition did not allege that earnest efforts toward a compromise have been made. However, the petitioners claim that there was actual compliance with the condition precedent, through: (i) the court-annexed mediation in the LRC case (involving the same parties and the same property), and (ii) the barangay conciliation proceeding between Antonio Gaw Chua and Vicente Gaw Chua, involving the former's complaint for physical injury, where the issue on the family dispute over the property was raised.

We rule that the validity of a reconstituted title is **not subject to compromise**. Therefore, Article 151 of the Family Code, as a ground for dismissal without prejudice under Section 1(j) of Rule 16, is **not applicable**.

Antonio claimed that he lost the original owner's duplicate of TCT No. 420866, and instituted a proceeding for the issuance of a new owner's

duplicate title. Presidential Decree (P.D.) No. 1529 provides the procedure in case of loss of an owner's duplicate certificate of title as follows:

Section 109. *Notice and replacement of lost duplicate certificate.* – In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

However, Section 109 applies only if the owner's duplicate certificate is indeed lost or destroyed.<sup>48</sup> Consequently, the decision may be attacked any time.<sup>49</sup>

In *Ibias, Sr. v. Macabeo*,<sup>50</sup> We ruled that if the certificate of title is not in fact lost or destroyed, the court where the petition for the issuance of a new owner's duplicate certificate of title never acquired jurisdiction to order the issuance of a new certificate. The newly issued duplicate is itself null and void. In *New Durawood Co., Inc. v. CA*,<sup>51</sup> We also stated that:

In the instant case, the owner's duplicate certificates of title were in the possession of Dy Quim Pong, the petitioner's chairman of the board and whose family controls the petitioner-corporation. Since said certificates were not in fact "lost or destroyed", there was no necessity for the petition filed in the trial court for the "issuance of New Owner's Duplicate Certificates of Title: . . ." In fact, the said court never acquired jurisdiction to order the issuance of new certificates. Hence, the newly issued duplicates are themselves null and void.<sup>52</sup>

Foregoing considered, it is not possible for family members to compromise and agree on the validity of a reconstituted title, if the owner's duplicate certificate is not in fact lost or destroyed, as this goes into the jurisdiction of the trial court to issue a new owner's duplicate certificate of

<sup>48</sup> *Ibias, Sr. v. Macabeo*, 793 Phil. 389 (2016).

<sup>49</sup> *Ibias, Sr. v. Macabeo, supra*, citing *Demetriou v. CA*, G.R. No. 115595, 14 November 1994, 308 Phil. 166, 171 (1994).

<sup>50</sup> *Ibias, Sr. v. Macabeo, supra*.

<sup>51</sup> 324 Phil. 109 (1996).

<sup>52</sup> *Id.* at 120.



title.

*First*, jurisprudence is clear that the court rendering the decision to grant the issuance of a new owner's duplicate title, if said title is not lost or destroyed in the first place, has no jurisdiction to order the issuance of a new owner's duplicate title.

*Second*, the validity of a new owner's duplicate title, if the owner's duplicate certificate is not in fact lost or destroyed, is an issue that goes beyond the private interests of the family members as in this case. This is because it relates to the Torrens system of registration of property and can affect public confidence on the certificates of title of property issued by Registries of Deeds. Assuming the validity of a new owner's duplicate title, if the said title is not in fact lost or destroyed, is compromised by the parties, this would enable a scenario where **both** the owner's duplicate certificate of title and the new owner's duplicate title may co-exist, which endangers the goal of stability and certainty of property registration under the Torrens system. This would result in a scenario where a third party will rely on the owner's duplicate certificate of title in the hands of one person and another third party will rely on the new owner's duplicate title in the hands of another person. This is clearly disruptive of public confidence on the Torrens system, and therefore, a matter that not merely affects the parties, but the public in general.

Hence, We cannot uphold the view that the validity of the reconstituted title in this case can be a subject of compromise. Specifically, We hold that the parties in this case, while being members of the same family, cannot compromise on the jurisdiction of the RTC which issued the decision to grant the new owner's duplicate title. Accordingly, failure to allege compliance with Article 151 of the Family Code in the petition, or failure to exert earnest efforts toward a compromise, is not fatal to the institution of the petition for annulment of the new owner's duplicate title.

As an aside, We wish to point out that had this case been susceptible to a compromise and had Article 151 of the Family Code been applicable, there was still no substantial compliance with earnest efforts toward a compromise. The court-annexed mediation in the LRC case, and the failure thereof, cannot be considered in this case. The subject matter of the LRC case is the validity of the adverse claim based on the conflicting claims of ownership over the land,<sup>53</sup> while the subject matter of this petition for annulment of new/owner's duplicate title has nothing to do with conflicting claims of ownership, but only with the fact that the previous title has been lost or destroyed. Likewise, We cannot consider the *barangay* conciliation hearing as constituting "earnest efforts toward a compromise" since it was instigated by a complaint for physical injury and the issue of partition of properties among family members was merely raised as the motivation for the alleged act of inflicting physical

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<sup>53</sup> *Rollo*, p. 49-52.

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injury. Additionally, the specific issue of whether the original owner's duplicate title was lost or destroyed has not been specifically raised and, in any case, the *barangay* conciliation was only between Antonio and Vicente.

Notwithstanding these defects in the parties' compliance with Article 151 of the Family Code, We reiterate that the validity of the new owner's duplicate title, if the owner's duplicate certificate is not in fact lost or destroyed, is not susceptible to a compromise. Thus, Article 151 of the Family Code is not applicable and therefore, is not a valid ground to dismiss the petition for annulment of the new/owner's duplicate title without prejudice.

Moreover, the fact that the owner's duplicate title is not lost or destroyed has been duly established in the proceedings before RTC. Petitioners presented the original owner's duplicate title during the pre-trial conference,<sup>54</sup> which *existence* was acknowledged by Antonio Gaw Chua in the pre-trial.<sup>55</sup> This gave rise to the presumption of regularity in the issuance of the owner's duplicate title. Since Antonio raised an allegation that the said document is spurious or fake, it was incumbent upon him to prove the same.<sup>56</sup> Antonio had several opportunities to prove that the document is spurious or fake – *i.e.*, during the trial dates of September 29, 2011, October 20, 2011, November 17, 2011, and December 16, 2011– but despite these, he failed to do so.<sup>57</sup> As Antonio failed to rebut the presumption of regularity in the issuance of the owner's duplicate title presented by petitioners, We have no other reason to disturb the findings of the RTC which annulled the new owner's duplicate of TCT No. 420866 that was issued in favor of Antonio.

**ACCORDINGLY**, the petition is **GRANTED**. The Decision dated September 27, 2013 and the Resolution dated May 12, 2014 of the Court of Appeals in CA-G.R. CV No. 99876 are **REVERSED** and **SET ASIDE**. The Decision dated June 14, 2012 of the Regional Trial Court, Branch 74, of Malabon City in Civil Case No. 5880-MN is hereby **REINSTATED**, and the new owner's duplicate copy of Transfer Certificate of Title No. 420866 issued to respondent Antonio Gaw Chua is declared **null and void**.

**SO ORDERED.**

  
**JHOSE P. LOPEZ**  
Associate Justice

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<sup>54</sup> *Id.* at 155.

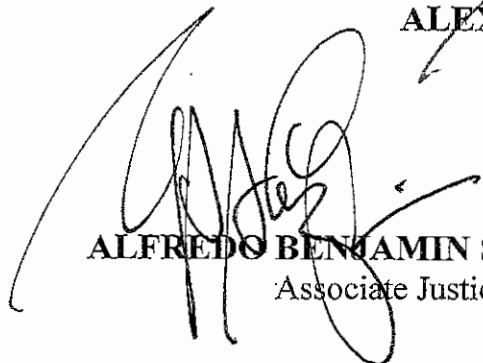
<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

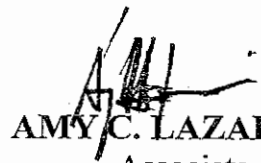
<sup>57</sup> *Id.* at 17.

**WE CONCUR:**

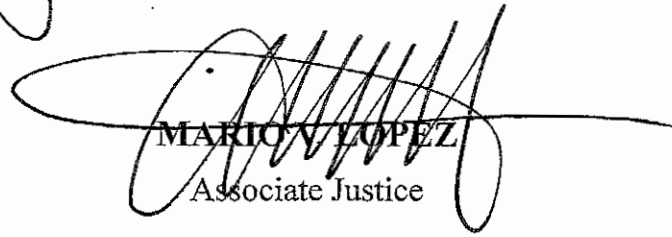
  
**ALEXANDER G. GESMUNDO**  
Chief Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



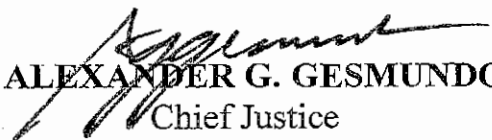
**AMY C. LAZARO-JAVIER**  
Associate Justice



**MARIONA 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's Division.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

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