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Republic of the Philippines  
Supreme Court  
Manila

Mis-DCB-#  
MISAEAL DOMINGO C. BATTUNG III  
Division Clerk of Court  
Third Division

SEP 18 2020

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THIRD DIVISION

PHILIPPINE COLLEGE OF  
CRIMINOLOGY, INC., MA.  
CECILIA BAUTISTA-LIM,  
RODOLFO VALENTINO F.  
BAUTISTA, MA. ELENA F.  
BAUTISTA, JEAN-PAUL  
BAUTISTA LIM, MARCO  
ANGELO BAUTISTA LIM,  
EDUARDO F. BAUTISTA, JR.,  
CORAZON BAUTISTA-JAVIER,  
SABRINA BAUTISTA-PANLILIO,  
MA. INES V. ALMEDA, ROSARIO  
R. DIAZ, and ATTY. RAMIL G.  
GABAO,

Petitioners,

-versus-

GREGORY ALAN F. BAUTISTA,  
Respondent.

x-----/

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

RECEIVED  
SEP 21 2020

BY: Henry  
TIME: 8:06 AM

G.R. No. 242486

September 15, 2020

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on June 10, 2020 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the

original of which was received by this Office on September 15, 2020 at 1:50 a.m.

By authority of the Court:

*Mis PDC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*

*9/18/2020*

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CA-G.R. CV No. 107477  
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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 24, 1000 Manila  
(Civil Case No. 12127276)

Judgment Division  
JUDICIAL RECORDS OFFICE  
Supreme Court, Manila

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Supreme Court, Manila



Mis D C Batt  
MISAELO DOMINGO C. BATTUNG III  
Division Clerk of Court  
Third Division

SEP 18 2020

Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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BY: Henry  
TIME: 8:06 am

THIRD DIVISION

PHILIPPINE COLLEGE OF G.R. No. 242486  
CRIMINOLOGY, INC., MA.  
CECILIA BAUTISTA-LIM, Present:  
RODOLFO VALENTINO F.  
BAUTISTA, MA. ELENA F. LEONEN, *J.*, Chairperson,  
BAUTISTA, JEAN-PAUL GESMUNDO,  
BAUTISTA LIM, MARCO CARANDANG,  
ANGELO BAUTISTA LIM, ZALAMEDA, and  
EDUARDO F. BAUTISTA, JR., GAERLAN, *JJ.*  
CORAZON BAUTISTA-JAVIER,  
SABRINA BAUTISTA-PANLILIO,  
MA. INES V. ALMEDA, ROSARIO  
R. DIAZ, and ATTY. RAMIL G.  
GABAO,

Petitioners,

-versus-

GREGORY ALAN F. BAUTISTA,  
Respondent.

Promulgated:  
June 10, 2020

Mis D C Batt

X-----X

DECISION

LEONEN, *J.*:

There is forum shopping when, between two (2) actions, there is identity of parties, causes of action, and reliefs sought. Absolute identity is not required. Identity of causes of action ensues when actions involve fundamentally similar breaches of the same right-duty correlative. In such instances, separate proceedings will have to consider substantially the same evidence, engendering possibly conflicting interpretations on fundamentally

the same incidents and unnecessarily expending judicial resources.

This resolves a Petition for Review on Certiorari<sup>1</sup> under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed Decision<sup>2</sup> and Resolution<sup>3</sup> of the Court of Appeals, which granted the appeal of Gregory Alan F. Bautista (Gregory) be reversed and set aside..

The assailed Court of Appeals Decision granted respondent Gregory's appeal, set aside the Regional Trial Court's ruling, which dismissed the Complaint for Specific Performance filed by Gregory on account of forum shopping and for lack of merit, and remanded the case to the Regional Trial Court for the continuation of the proceedings. The assailed Court of Appeals Resolution denied petitioners' Motion for Reconsideration.

Petitioner Philippine College of Criminology was founded in 1953 by Supreme Court Associate Justice Felix Angelo Bautista. He served as its President and Board Chairperson until his death in 1985. Thereafter, his son, Eduardo J. Bautista (Eduardo Sr.) took over as President and Chairperson. Five (5) of the parties to this case are Eduardo Sr.'s children: Gregory, and petitioners Ma. Cecilia Bautista-Lim (Cecilia), Rodolfo Valentino F. Bautista (Rodolfo), Ma. Elena F. Bautista (Elena), and Eduardo F. Bautista, Jr. (Eduardo Jr.).<sup>4</sup>

On May 18, 2006 Eduardo Sr. issued Presidential Order No. 1, which provided that "[i]n the event of [his] demise or permanent incapacity to act as President and Board Chairperson or whenever [he] choose[s] to relinquish [his] position, [respondent] EVP Gregory Alan F. Bautista shall become President and Board Chair[person]."<sup>5</sup> It further stipulated that Gregory's siblings "shall render full and unconditional support to the incumbent in accordance with the above-stated line of succession[.]"<sup>6</sup>

In conformity with Presidential Order No. 1, Gregory, Cecilia, Rodolfo, Elena, and Eduardo Jr. signed a Certificate of Acquiescence, which stated:

We, the undersigned hereby certify that we have read, understood and we are in full accord with the above. Likewise we hereby obligate ourselves to obey and follow the provisions thereof under the pain of sanctions above provided as well as other sanctions which the President /

<sup>1</sup> *Rollo*, pp. 8–28.

<sup>2</sup> *Id.* at 37–58. The April 12, 2018 Decision was penned by Associate Justice Rafael Antonio M. Santos and concurred in by Associate Justices Ramon A. Cruz and Socorro B. Inting of the Special Twelfth Division of the Court of Appeals, Manila.

<sup>3</sup> *Id.* at 29–36. The October 8, 2013 Resolution was penned by Associate Justice Rafael Antonio M. Santos and concurred in by Associate Justices Mario V. Lopez (now a member of this Court) and Ramon A. Cruz of the Special Former Special Twelfth Division of the Court of Appeals, Manila.

<sup>4</sup> *Id.* at 39.

<sup>5</sup> *Id.*

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

Board Chairman has the legal authority to impose.<sup>7</sup>

On September 26, 2006, Eduardo Sr. issued a Memorandum Order indicating that on September 13, 2006, he had relinquished the position of President in favor of Gregory.

No one opposed this. What merely followed was the execution of the Bautista Family's Memorandum of Agreement on July 30, 2007. This Memorandum of Agreement stated that: first, the management of the Philippine College of Criminology and Manila Law College shall remain with Eduardo Sr.'s family; second, majority of the members of the Philippine College of Criminology-Manila Law College Board of Trustees shall be members of Eduardo Sr.'s family; and third, Guia Bautista, Ma. Rosario B. Villegas, Cesar J. Bautista, and Carmen Bautista shall be members of the Board, with their direct descendants taking their respective places in the event of their demise or permanent incapacity.<sup>8</sup>

On July 26, 2008, Eduardo Sr. passed away. Gregory then took over as Chairperson of the Board of Trustees.<sup>9</sup>

On January 12, 2010, Rodolfo wrote to Gregory inquiring on when a general membership and / or board meeting shall be called. On January 21, 2011, Rodolfo and Cecilia again wrote to Gregory impressing the need for meetings. The same letter informed Gregory that they were calling for a Special Joint General Membership, Board of Trustees, and Organizational Meeting on January 31, 2011.<sup>10</sup>

The special meeting proceeded but Gregory did not attend. In that meeting, the Board of Trustees was reorganized, as follows: first, the incumbent board memberships of the siblings Gregory, Cecilia, Rodolfo, and Elena, as well as of petitioners Jean-Paul Bautista Lim (Jean Paul) and Marco Angelo Bautista Lim (Marco), were confirmed; second, four (4) new board members were elected – petitioners Eduardo Jr., Corazon Bautista Javier (Corazon), Sabrina Bautista-Panlilio (Sabrina), and Ma. Ines V. Almeda (Ines).<sup>11</sup>

The same meeting called for the election of executive officers, including the position of President. The minutes of the meeting indicated that Cecilia was elected President, in lieu of Gregory. Cecilia likewise took over as Board Chairperson.<sup>12</sup>

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<sup>7</sup> Id. at 40.

<sup>8</sup> Id. at 40-41.

<sup>9</sup> Id. at 41.

<sup>10</sup> Id. at 41 and 65.

<sup>11</sup> Id. at 42-43.

<sup>12</sup> Id. at 43.

Gregory took issue with Cecilia's takeover and, on March 25, 2011, filed a Petition for *Quo Warranto*.<sup>13</sup> Gregory alleged that his removal was "not valid since the attendance of the board members did not meet the required quorum and [petitioners] violated his right over [the position of Chairperson of the Board of Trustees and President] as mandated by Presidential Order No. 1."<sup>14</sup> This action was docketed as Civil Case No. 11-125408 and was raffled to the Regional Trial Court, Manila, Branch 24.<sup>15</sup>

Gregory's *Quo Warranto* Petition was subsequently dismissed by the Regional Trial Court "for being insufficient in form and substance."<sup>16</sup> This dismissal was, however, appealed to the Court of Appeals, and subsequently to this Court.<sup>17</sup>

In the meantime, Cecilia caused the audit of the Philippine College of Criminology's books. The findings of the special audit suggested that several sums had been unduly disbursed to Gregory.<sup>18</sup> Acting on the special audit, a resolution authorizing Cecilia to undertake legal action against Gregory was passed in the Board's June 1, 2011 meeting.<sup>19</sup>

At another Board meeting scheduled on August 10, 2011, the Board was due to discuss Gregory's suspension or expulsion as board member. This matter was, however, shelved as the Board opted to negotiate with Gregory in the interim. The Board then maintained that Gregory should return the amounts that were noted to have been unduly disbursed to him. Gregory, however, did not comply.<sup>20</sup>

Thus, in a November 17, 2011 meeting, the Board resolved to file actions against Gregory. At another meeting on January 11, 2012, the Board passed Resolution No. 25 expelling Gregory from the Board of Trustees.<sup>21</sup>

In response to Resolution No. 25, on February 9, 2012, Gregory filed a Complaint against petitioners which was identified as an action for "Specific Performance, Intra-Corporate Controversy, and Damages."<sup>22</sup> This Complaint expressly acknowledged the pendency of the *quo warranto* case.<sup>23</sup> Asking that petitioners honor the commitment made in the Certificate of Acquiescence vis-à-vis Presidential Order No. 1, this Complaint specifically

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<sup>13</sup> Id. at 49-50.

<sup>14</sup> Id. at 67-68.

<sup>15</sup> Id. at 68.

<sup>16</sup> Id. at 44.

<sup>17</sup> Id.

<sup>18</sup> Id. at 45 and 67.

<sup>19</sup> Id. at 44-45.

<sup>20</sup> Id. at 45.

<sup>21</sup> Id. at 45-46.

<sup>22</sup> Id. at 46.

<sup>23</sup> Id. at 53.

prayed for the invalidation of Resolution No. 25 and a declaration that Gregory was still a Board Member.<sup>24</sup>

This Complaint was docketed as Civil Case No. 12-127276, and was raffled to the Regional Trial Court, Manila, Branch 24, the same branch that had earlier dismissed Gregory's *Quo Warranto* Petition.<sup>25</sup>

Petitioners filed an Answer which, apart from raising substantive arguments, sought the Complaint's dismissal on account of forum shopping.<sup>26</sup>

On June 10, 2016, the Regional Trial Court rendered a Decision by way of a summary judgment.<sup>27</sup> It dismissed Gregory's Complaint on account of forum shopping and lack of merit. According to it, considering its prior dismissal of Gregory's original *Quo Warranto* Petition, nothing stood in the way of the Board's exercise of its prerogatives, including the selection of its members. Thus, the Board was supposedly well within its competence to issue Resolution No. 25.<sup>28</sup>

In its assailed April 12, 2018 Decision,<sup>29</sup> the Court of Appeals granted Gregory's appeal, set aside the Regional Trial Court's ruling, and remanded the case to the Regional Trial Court for the continuation of the proceedings.

Following the Court of Appeals' October 8, 2018 Resolution<sup>30</sup> which denied their Motion for Reconsideration, petitioners filed the present Petition.<sup>31</sup>

In a February 13, 2019 Resolution,<sup>32</sup> this Court required Gregory to file a comment.

In his Comment,<sup>33</sup> Gregory maintains that he did not engage in forum shopping.<sup>34</sup> He also maintains that Presidential Order No. 1, coupled with his petitioner-siblings' acquiescence to it, as embodied in the Certificate of Acquiescence they signed, created a valid obligation on petitioners' part to honor his right over the positions of Chairperson of the Board of Trustees and President.<sup>35</sup> He also maintains that his removal as Board Member violated the

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<sup>24</sup> Id. at 47.

<sup>25</sup> Id. at 38 and 68.

<sup>26</sup> Id. at 47.

<sup>27</sup> Id. at 59–81. The Decision was penned by Judge Maria Victoria A. Soriano-Villadolid of the Regional Trial Court of Manila, Branch 24.

<sup>28</sup> Id. at 72–80.

<sup>29</sup> Id. at 37–58.

<sup>30</sup> Id. at 29–36.

<sup>31</sup> Id. at 8–28.

<sup>32</sup> Id. at 122.

<sup>33</sup> Id. at 157–159.

<sup>34</sup> Id. at 140–149.

<sup>35</sup> Id. at 149–151.

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Philippine College of Criminology's Articles of Incorporation and the July 30, 2007 Memorandum of Agreement.<sup>36</sup>

For resolution is the issue of whether or not the Court of Appeals erred in reinstating respondent Gregory Alan F. Bautista's Complaint as he supposedly did not engage in forum shopping.

The Court of Appeals erred in ruling that respondent did not engage in forum shopping and in remanding the case to the Regional Trial Court for further proceedings.

*City of Taguig v. City of Makati*<sup>37</sup> explained the standards for evaluating forum shopping:

The test for determining forum shopping is settled. In *Yap v. Chua, et al.*:

To determine whether a party violated the rule against forum shopping, the most important factor to ask is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another; otherwise stated, the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.

For its part, *litis pendentia* "refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious." For *litis pendentia* to exist, three (3) requisites must concur:

The requisites of *litis pendentia* are: (a) the identity of parties, or at least such as representing the same interests in both actions; (b) the identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.

On the other hand, *res judicata* or prior judgment bars a subsequent case when the following requisites are satisfied:

(1) the former judgment is final; (2) it is rendered by a court having jurisdiction over the subject matter and the parties; (3) it is a judgment or an order on the merits; (4) there is — between the first and the second actions — identity of parties, of subject matter, and of causes of action.<sup>38</sup> (Citations omitted)

<sup>36</sup> Id. at 152–155.

<sup>37</sup> 787 Phil. 367 (2016) [Per J. Leonen, Second Division].

<sup>38</sup> Id. at 387–388.



Forum shopping, then, concerns similarity in parties, rights or causes of action, and reliefs sought. It is not necessary that there be absolute identity as to these.

Concerning identity of parties, *Aboitiz Equity Ventures, Inc. v. Chiongbian*<sup>39</sup> explained:

While it is true that the parties to the first and second complaints are not absolutely identical, this court has clarified that, for purposes of forum shopping, *absolute identity of parties is not required and that it is enough that there is substantial identity of parties.*<sup>40</sup> (Emphasis supplied, citation omitted)

Cause of Action is the basis for invoking legal reliefs. It concerns the right allegedly violated and the act or omission that breaches the right or the duty implicit in it. In *Swagman Hotels & Travel Inc. v. Court of Appeals*.<sup>41</sup>

Cause of action, as defined in Section 2, Rule 2 of the 1997 Rules of Civil Procedure, is the act or omission by which a party violates the right of another. Its essential elements are as follows:

1. A right in favor of the plaintiff by whatever means and under whatever law it arises or is created;
2. An obligation on the part of the named defendant to respect or not to violate such right; and
3. Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief.<sup>42</sup> (Citation omitted)

In ascertaining whether multiple suits relate to a single cause of action, the test is whether there is the possibility that courts will, in different proceedings, consider substantially the same evidence such that there is the possibility of diverging interpretations. This engenders needless conflict, confusion, and duplication of judicial resources. *Umale v. Canoga Park Development Corporation*<sup>43</sup> explained:

Generally, a suit may only be instituted for a single cause of action. If two or more suits are instituted on the basis of the same cause of action, the filing of one or a judgment on the merits in any one is ground for the dismissal of the others.

<sup>39</sup> 738 Phil. 773 (2014) [Per J. Leonen, Third Division].

<sup>40</sup> Id. at 797.

<sup>41</sup> 495 Phil. 161 (2005) [Per C.J. Davide, Jr., First Division].

<sup>42</sup> Id. at 169.

<sup>43</sup> 669 Phil. 427 (2011) [Per J. Brion, Second Division].

Several texts exist to ascertain whether two suits relate to a single or common cause of action, such as whether the same evidence would support and sustain both the first and second causes of action (also known as the “*same evidence*” test), or whether the defenses in one case may be used to substantiate the complaint in the other. Also fundamental is the test of determining the cause of action in the second case existed at the time of the filing of the first complaint.<sup>44</sup> (Emphasis supplied, citations omitted)

*Riviera Golf Club, Inc. v. CCA Holdings, B.V.* further elaborated on the “ultimate test” for ascertaining identity of cause of action:

It is a settled rule that the application of the doctrine of *res judicata* to identical causes of action does not depend on the similarity or differences in the forms of the two actions. A party cannot, by varying the form of the action or by adopting a different method of presenting his case, escape the operation of the doctrine of *res judicata*. The test of identity of causes of action rests on whether the same evidence would support and establish the former and the present causes of action.

We held in *Esperas v. The Court of Appeals* that the **ultimate test** in determining the presence of identity of cause of action is to consider whether the same evidence would support the cause of action in both the first and the second cases. Under the **same evidence test**, when the same evidence support and establish both the present and the former causes of action, there is likely an identity of causes of action.<sup>45</sup> (Emphasis in the original, citations omitted)

Identity of causes of action, like identity of parties, does not mean absolute identity. As discussed in *Heirs of Arania v. Intestate Estate of Sangalang*.<sup>46</sup>

“Identity of causes of action does not mean absolute identity. Otherwise, a party could easily escape the operation of *res judicata* by changing the form of the action or the relief sought. The test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action.” In this case, the same evidence will be necessary to sustain the causes of action in the two cases which are unequivocally based on the same set of facts. While it may be true that the respondents raised as an additional assignment of error in the petition for *certiorari* the DARAB’s issuance of the writ of execution pending appeal, they nevertheless sought the nullification of the DARAB decision. Hence, in truth and in fact, the two petitions are based on the same cause of action.<sup>47</sup> (Emphasis supplied, citation omitted)

Respondent here pursued two (2) successive actions: first, an action for

<sup>44</sup> Id. at 435.

<sup>45</sup> Id. at 666–667.

<sup>46</sup> G.R. No. 193208, December 13, 2017, 848 SCRA 474 [Per J. Martires, Third Division].

<sup>47</sup> Id. at 498–499.

*quo warranto* (docketed as Civil Case No. 11-125408); and second, an action for specific performance (docketed as Civil Case No. 12-127276). The *Quo Warranto* Petition sought petitioner Cecilia's ouster and respondent's restoration as President and Board Chairperson. The Complaint for specific performance sought respondent's restoration as Board Member.

Both actions arose from the same larger narrative of respondent's conflict with his siblings and other relatives. They involve substantially the same set of facts, parties, and causes of action.

Both actions are anchored on respondent's supposed rights arising from the Certificate of Acquiescence that he and his petitioner-siblings executed vis-à-vis their father's Presidential Order No. 1, and those same petitioner-siblings' supposed default on their commitment. Thus, they involve the same right-duty correlative, and are both premised on his ouster as a supposed violation of his rights and a breach of petitioners' duty. Even in the present Petition, which was spurred by his ouster as Board Member, respondent still harps on how Presidential Order No. 1, along with his petitioner-siblings' acquiescence to it, created an obligation on petitioners' part to honor his right over the positions of Chairperson of the Board of Trustees and President.<sup>48</sup> Both actions were instituted by respondent against his siblings and those who, along with them, he claims to have acted in such a manner as to deny him of positions which he insists are due to him.

As the same basic factual considerations are involved, the same pieces of evidence will need to be considered to ascertain the extent of rights and duties accruing to each party, and whatever violation may have ensued.

It is true that the *Quo Warranto* Petition and the Complaint for specific performance ask for two (2) distinct reliefs. However, the grant of relief in every action is rooted in its cause of action. The nature of the right and duty involved, and the ensuing manner of breach are ultimately the bases of whatever succor a court can extend.

The causes of action in both proceedings initiated by respondent are predominantly similar. They will ultimately concern the same questions: whether Presidential Order No. 1 should be upheld; whether the new Board is legitimate; and whether its actions are legitimate. The reliefs that will extend to respondent in the event of a favorable resolution in either action ultimately depend on a consideration of these same bases.

A supervening event may very well have ensued—respondent's ouster as Board Member—inciting respondent to seek further legal relief. But his proper remedy was not to imprudently initiate a nominally distinct

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<sup>48</sup> *Rollo*, p. 137.

proceeding, but rather, to manifest new facts while the appeal emanating from his *Quo Warranto* Petition was being considered and, eventually, to file supplemental pleadings, if warranted.

Rather than this, the course that respondent pursued toyed—whether wittingly or unwittingly—with the very dangers which our rules against forum shopping seek to prevent: diverging interpretation on fundamentally the same incidents, and unnecessary conflict, duplication, and expending of judicial resources.

**WHEREFORE**, the Petition is **GRANTED**. The assailed April 12, 2018 Decision and October 8, 2018 Resolution of the Court of Appeals in CA-G.R. CV No. 107477 are **REVERSED** and **SET ASIDE**. The Regional Trial Court's June 10, 2016 Decision in Civil Case No. 12-127276 is **REINSTATED**.

**SO ORDERED.**

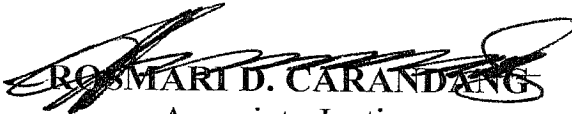


MARVIC M.V.F. LEONEN  
Associate Justice

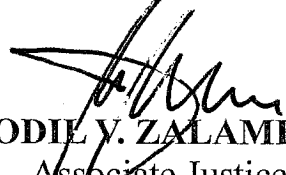
WE CONCUR:




ALEXANDER G. GESMUNDO  
Associate Justice



ROSMARI D. CARANDANG  
Associate Justice



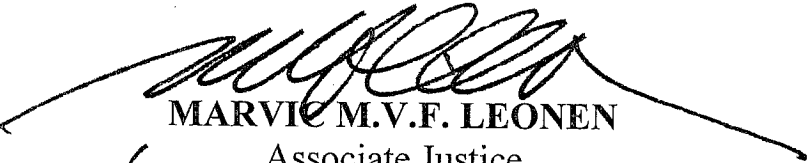
RODIE Y. ZALAMEDA  
Associate Justice



SAMUEL H. GAERLAN  
Associate Justice

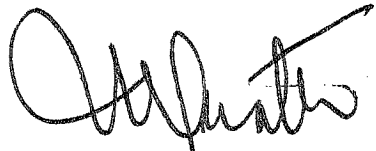
**ATTESTATION**

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.

  
**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson

**CERTIFICATION**

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

  
**DIOSDADO M. PERALTA**  
Chief Justice

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*Misael D. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court  
Third Division  
SEP 18 2020