

Republic of the Philippines
Supreme Court
Baguio City

EN BANC

ATTY. MELITA GO and WAYNE
GO,

Petitioners,

-versus-

SAINT JUDE CATHOLIC SCHOOL
MANILA, INC., FR. MARCELINO
NICASIO, SVD, FATIMA DE
GUZMAN, and SPOUSES EUGENE
LEE and JOANNE LEE,

Respondents.

G.R. No. 257761

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH,* JJ.

Promulgated:

April 22, 2025

X

DECISION

ROSARIO, J.:

The only costs of suit recoverable by the prevailing party are those fixed in Rule 142, Sections 9 to 11 of the Rules of Court, any other item included in a judgment under that category being properly a matter of damages rather

* On leave.

than of costs. Thus, reasonable attorney's fees may be recovered only as actual or compensatory damages and should not simultaneously be taxed as costs.

This Petition for Review on *Certiorari*¹ under Rule 45, Rules of Court assails the Resolutions² of Branch 97, Regional Trial Court (RTC), Quezon City, which denied items of cost of suit prayed for by petitioners Atty. Melita Go and Wayne Go.

The case stems from a Complaint³ for damages where the RTC rendered a Decision⁴ awarding herein petitioners attorney's fees and costs of suit, among others, to wit:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against defendants SAINT JUDE CATHOLIC SCHOOL MANILA, INC., represented by its President, Rev. Fr. RODERICK SALAZAR, SVD, FR. MARCELINO NICASIO, SVD, and FATIMA DE GUZMAN, who shall be principally and solidarily liable to pay the plaintiffs the following:

- 1) [PHP] 21,128.00 by way of actual damages;
- 2) [PHP] 100,000.00 by way of exemplary damages;
- 3) [PHP] 100,000.00 by way attorney's fees; and
- 4) *Cost of suit.*

Defendants[-]spouses Eugene and Joanne Lee are hereby adjudged subsidiarily liable for the foregoing amounts.

SO ORDERED.⁵ (Emphasis supplied)

Petitioners filed a Motion for the Issuance of Writ of Execution with Manifestation of the Cost of Suit⁶ with the following verified bill of costs:

- a. Complaint, Reply, and other pleadings and [PHP] 30,000.00 motions from 2011 to 2019
- b. Attendance of plaintiff, Atty. Go[,] and her [PHP] 264,000.00 attorneys in court for a total of [41] hearing dates. (Computed at [PHP] 3,000.00 per court appearance to be multiplied with the number of attendance of... Atty. Go and her counsels (total of 88) as shown in the attached list.
- c. Travelling fees of [5] witnesses who attended [PHP] 5,000.00 the trial
- d. Filing and docket fees for this case (Exhibit [PHP] 24,014.00 T-4)

¹ *Rollo*, pp. 5-40.

² *Id.* at 164-166; 167-168. The July 21, 2021 and September 10, 2021 Resolutions in Civil Case No. Q-11-69265 were penned by Presiding Judge Rochelle S. Manuel of Branch 97, Regional Trial Court, Quezon City.

³ *Id.* at 1011-1017.

⁴ *Id.* at 41-163. The October 7, 2019 Decision in Civil Case No. Q-11-69265 was penned by Acting Presiding Judge Marilou D. Runes-Tamang of Branch 97, Regional Trial Court, Quezon City.

⁵ *Id.* at 162-163.

⁶ *Id.* at 195-200.

- e. Photocopying, notarization, certification of [PHP] 5,000.00 documents
- f. Payment of Transcript of Stenographic Notes [PHP] 20,000.00 (TSN)

Total Cost of Suit

[PHP] 348,014.00⁷

The Motion was denied in the RTC's February 23, 2021 Order⁸ on the ground that the period to appeal of respondents had not yet run because the records of the court showed that they had not yet received a copy of its February 26, 2020 resolution on their motion for reconsideration.⁹

After the Decision attained finality, petitioners filed their Second Motion for Issuance of Writ of Execution with Manifestation of the Cost of Suit.¹⁰ In its July 21, 2021 Resolution, the RTC granted the motion for the issuance of a writ of execution but denied petitioners' items of cost of suit in this wise:

The Motion for Writ of Execution is partly granted. However, the additional cost of suit amounting to [PHP] 348,014.00 may not be granted on execution as said amount was not passed upon during trial and in the Decision sought to be executed. . . . Veritably, plaintiffs' prayer for the award of additional cost of suit in their Motion for Execution will effectively alter or modify the Decision. It is a hornbook rule that once a judgment has reached its finality, it may no longer be modified on execution.

....

WHEREFORE, in light of the foregoing, the Motion is PARTLY GRANTED. The claim for additional cost of suit amounting to [PHP] 348,014.00 is hereby DENIED.¹¹

Undeterred, they filed a Motion for Partial Reconsideration¹² which the RTC denied in its September 10, 2021 Resolution.

Hence, this Petition for Review on *Certiorari*.¹³

In their Comment/Opposition,¹⁴ respondents Saint Jude Catholic School Manila, Inc., Fr. Marcelino Nicasio, SVD, Fatima de Guzman, Meiita Iglesia, and Anthony de Lara (collectively, SJCSM et al.) pray that the Petition be denied because the Rules expressly prohibit appeal of an order of execution

⁷ *Id.* at 196.

⁸ *Id.* at 219–221. The February 23, 2021 Order in Civil Case No. Q-11-69265 was penned by Presiding Judge Rochelle S. Manuel of Branch 97, Regional Trial Court, Quezon City.

⁹ *Id.* at 221.

¹⁰ *Id.* at 222–229.

¹¹ *Id.* at 164–165.

¹² *Id.* at 241–245.

¹³ *Id.* at 5–40.

¹⁴ *Id.* at 292–310.

and because petitioners are asking for additional attorney's fees not proven during trial. Even assuming that they may be allowed as costs, the costs of suit prayed for exceed those allowed under the Rules.¹⁵

On the other hand, respondents Spouses Eugene Lee and Joanne Lee aver in their Comment/Opposition¹⁶ that the alleged costs are improper and/or unreasonable and unconscionable and, thus, cannot be taxed as costs under prevailing rules. Assuming that said costs may be taxed as costs of suit, petitioners still failed to comply with the required procedure for their assessment.¹⁷

In their Reply,¹⁸ petitioners contend that the Petition is directed not at the order of execution but at errors on a question of law, i.e., the trial court committed a serious and reversible error when it denied their items of costs of suit for being "additional costs of suit" which would effectively alter or modify the decision. They further argue that they are not asking for additional attorney's fees not proven during trial since the attorney's fees awarded by the trial court is an item of damages while the appearance fees paid to counsel are their costs of suit or necessary expenses. To petitioners, the contention that the items of cost of suit are "additional attorney's fees" is erroneous because costs of suit were also awarded to petitioners, separately and distinctly from the award of attorney's fees. Finally, they allege that they submitted their items of cost of suit pursuant to Rule 142, Section 8 of the Rules of Court and that their claim is in conformity with the Decision of the trial court.¹⁹

Court's Ruling

I

On procedural matters, respondents SJCSM et al. contend that the Petition ought to be dismissed outright considering that the assailed Resolutions are orders of execution and Rule 41, Section 1 of the Rules of Court expressly prohibits an appeal taken from an order of execution.²⁰ On the other hand, petitioners retort that the Petition does not seek a review or reversal of the entire order of execution but presents a pure question of law solely on the denial of their items of costs of suit.²¹

When petitioners filed a Second Motion for Issuance of Writ of Execution with Manifestation of the Cost of Suit, they prayed not only for the issuance of a writ of execution but also that the items in their bill of costs be

¹⁵ *Id.* at 306–307.

¹⁶ *Id.* at 992–1010.

¹⁷ *Id.* at 998–1005.

¹⁸ *Id.* at 276–290.

¹⁹ *Id.* at 278–286.

²⁰ *Id.* at 296.

²¹ *Id.* at 277–278.

allowed. While the assailed Resolutions are indeed unappealable insofar as they granted execution, the denial of the items of cost of suit is a ruling on taxation of costs, albeit erroneously performed by the RTC judge instead of the clerk of court as will be later discussed. In *Del Rosario v. Hon. Bayona*,²² the Court found no cogent reason why such a ruling cannot be appealed from if one disagrees with the costs as taxed by the court. Such ruling is final in character, not merely interlocutory.²³ Hence, petitioners availed of the correct remedy under Rule 45 insofar as costs are concerned.

II

The term “costs” as applied to proceedings in a court of justice has a well understood, fixed, and technical meaning. Costs are certain allowances authorized by statute to reimburse the successful party for expenses incurred in prosecuting or defending an action or special proceeding.²⁴ The only costs which may be recovered in this jurisdiction are those fixed by Rule 142, Sections 9 to 11 of the Rules of Court, any other item included in a judgment under that category being properly a matter of damages rather than of costs.²⁵ Section 10 provides an exclusive list of the amounts recoverable by the prevailing party as costs in courts of first instance (now regional trial courts):

SEC. 10. *Cost in Court of First Instance.* — In an action or proceeding pending in a Court of First Instance, the prevailing party may recover the following costs, **and no other**:

- (a) For the complaint or answer, fifteen pesos;
- (b) For his[/her] own attendance, and that of his[/her] attorney, down to and including final judgment, twenty pesos;
- (c) For each witness necessarily produced by him[/her], for each day's necessary attendance of such witness at the trial, two pesos, and his[/her] lawful traveling fees;
- (d) For each deposition lawfully taken by him[/her], and produced in evidence, five pesos;
- (e) For original documents, deeds, or papers of any kind produced by him[/her], nothing;
- (f) For official copies of such documents, deeds, or papers, the lawful fees necessarily paid for obtaining such copies;
- (g) The lawful fees paid by him[/her] in entering and docketing the action or recording the proceedings, for the service of any process in action, and all lawful clerk's fees paid by him[/her]. (Emphasis supplied)

²² 92 Phil. 899 (1953) [Per J. Bautista Angelo, *En Banc*].

²³ *Id.* at 901.

²⁴ MARTIN, RULES OF COURT IN THE PHILIPPINES, Vol. 6, 2nd ed., p. 307, citing 20 C.J.S. 257.

²⁵ *Id.* at 308.

In respect of attorney's fees, Section 6 of the same Rule provides:

SEC. 6. *Attorney's fees as costs.* — No attorney's fees shall be taxed as costs against the adverse party, except as provided by the rules of civil law. But this section shall have no relation to the fees to be charged by an attorney as against his[/her] client.

This section is substantially the same as Rule 131, Section 6 of the old Rules of Court with a slight change in phraseology. The new section uses the phrase "as provided by the rules of civil law," whereas the old provision employs the phrase "as herein specially provided."²⁶ Prior to the effectivity of the new Civil Code on August 30, 1950, attorney's fees could not be recovered as damages but only as costs.²⁷ With the promulgation of the new Civil Code, litigants were no longer limited to lawyer's fees as costs under Rule 142, Sections 9 to 11 but may be awarded reasonable attorney's fees as actual or compensatory damages under Article 2208 of the Civil Code, to wit:

ART. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his[/her] interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;

²⁶ MARTIN, RULES OF COURT IN THE PHILIPPINES, Vol. 6, 2nd ed., p. 314.

²⁷ *Castueras v. Bayona*, 106 Phil. 340, 345 (1959) [Per J. Bautista Angelo, *En Banc*].

- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

Attorney's fees and expenses of litigation may be recovered as damages only if there is a stipulation to that effect or if any of the above 11 instances apply. Otherwise, only costs under Rule 142 may be recovered. Article 2208 of the Civil Code operates as an exception to the general rule that attorney's fees cannot be recovered as part of damages owing to the policy that no premium should be placed on the right to litigate. Even then, the power of the court to award the same demands factual, legal, and equitable justification. Even when claimants are compelled to litigate with third persons or to incur expenses to protect their rights, still, attorney's fees may not be awarded where there is no sufficient showing of bad faith in a party's persistence in a case other than an erroneous conviction of the righteousness of their cause.²⁸

Attorney's fees, as part of damages, are not necessarily equated to the amount paid by a litigant to a lawyer.²⁹ In their ordinary concept, they are the reasonable compensation paid to a lawyer by a client for the legal services the former has rendered to the latter, the basis being the lawyer's employment by an agreement with the client. In their extraordinary concept, they are an indemnity for damages ordered by the court to be paid by the losing party in litigation, the basis being any of the cases provided by law where such award can be made such as those under Article 2208 of the Civil Code, and is payable not to the lawyer but to the client unless they have agreed that the award shall pertain to the former as additional compensation or as part thereof.³⁰

The main issue is not whether attorney's fees were correctly awarded as damages, the same having attained finality, but whether the same may be recovered simultaneously as damages and as costs. We rule in the negative.

To recall, petitioners were awarded PHP 100,000.00 as attorney's fees in the judgment. When the same attained finality, they moved for its execution and prayed for various items of costs, among which, the amount of PHP 264,000.00 for the attendance of their counsels at 41 hearings.

Section 6 of Rule 142 must be read in relation to Section 10 thereof which allows the prevailing party to recover the costs enumerated therein "*and no other.*" Thus, attorney's fees in excess of the amounts fixed by the

²⁸ *ABS-CBN Broadcasting Corp. v. Court of Appeals*, 361 Phil. 499, 529 (1999) [Per C.J. Davide, Jr., First Division].

²⁹ *Benedicto v. Villaflores*, 646 Phil. 733, 741 (2010) [Per J. Nachura, Second Division].

³⁰ *Traders Royal Bank Employees Union-Independent v. National Labor Relations Commission*, 336 Phil. 705, 712 (1997) [Per J. Regalado, Second Division].

✓

Rules cannot be taxed as costs against the adverse party.³¹ In the same vein, the Rules only allow the amount of PHP 15.00 for the complaint or answer, and no other pleading or motion.³² As to original documents, deeds, or papers of any kind produced by him/her, the prevailing party is entitled to nothing.³³

While Article 2208 of the Civil Code provides for the recovery of attorney's fees as damages, nothing in the law allows their simultaneous recovery as costs, other than those listed in Rule 142, Sections 9 to 11. Indeed, it would be absurd to award a *reasonable* amount of attorney's fees as damages, only to later award the actual appearance fees of the prevailing party's counsel as costs. It is for this reason that Section 6 specifically states that it "shall have no relation to the fees to be charged by an attorney as against his[/her] client." It would also be illogical to consider the number of counsel appearances in determining costs where the Rules only provide a flat rate of PHP 20.00 to cover all appearances "down to and including final judgment" in the RTC. While PHP 20.00 today is admittedly not the sizeable amount that it was when the old Rules were in effect, unless amended, that amount remains the only amount of lawyer's fees that can properly be awarded as costs.

Where a party claims attorney's fees as damages, an allowance of attorney's fees by the court on motion, taxed as part of costs, is improper.³⁴ Accordingly, petitioners are entitled only to the attorney's fees awarded as damages in the judgment and PHP 20.00 for the attendance of their counsels, among other costs exclusively enumerated in Section 10 of Rule 142.

To buttress their claim that costs are not limited to those in Rule 142, Sections 9 to 11, petitioners cite *Norsk Hydro (Philippines), Inc. v. Premiere Development Bank*³⁵ where the Court declared that "the costs of filing a suit includes, *but not limited to*, those found under Sections 9, 10, and 11 of Rule 142 of the Revised Rules of Court."³⁶ However, in stating that the costs of filing a suit is not limited to said sections, We were referring also to costs in other provisions of the Rules of Court which may be considered by the courts and taxed against the *losing* party or witness even if they are not recoverable by the prevailing party such as under Rule 23, Section 18³⁷ and Rule 32,

³¹ MALCOLM, LEGAL AND JUDICIAL ETHICS, 1949 ed., p. 65.

³² RULES OF COURT, sec. 10(a).

³³ RULES OF COURT, sec. 10(e).

³⁴ 20 C.J.S. 218, *citing Siegel Market v. Billings*, 210 N.W. 749, 203 Iowa 190, where the Supreme Court of Iowa held that when evidence in support of attorney's fees as damages was submitted to the jury, it was improper for the court to tax an additional amount of attorney's fees as part of costs, there being no rule permitting either the duplication or splitting of attorney's fees in such manner.

³⁵ 885 Phil. 256 (2020) [Per J. Reyes, Jr., First Division].

³⁶ *Id.* at 277.

³⁷ RULES OF COURT, Rule 23, sec. 18. *Motion to terminate or limit examination.* – At any time during the taking of the deposition, on motion or petition of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the Regional Trial Court of the place where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition, as provided in Section 16 of this Rule... *In granting or refusing such order, the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable.* (Emphasis supplied)

Section 13.³⁸ Thus, insofar as costs that may be recovered by the *successful* party are concerned, these refer only to those in Rule 142, Sections 9 to 11

Our pronouncement in *Corpus v. Corpus*,³⁹ an *En Banc* case decided during the effectivity of the New Civil Code, i.e., when then Rule 131 (now Rule 142) of the Rules of Court on costs and Article 2208 of the Civil Code on attorney's fees coexisted, is *a propos*:

[T]he only costs that a winning party may recover when the same are awarded in a decision are only those fixed by the statute, and in this jurisdiction, these costs are the ones prescribed in Rule 131 of our Rules of Court. Thus, in said Rule 131 it is expressly provided that the prevailing party may only recover, the cost fixed therein "and no other" (sections 9, 10 and 11)...

*"Costs ordinarily may be imposed and recovered only in cases where there is statutory authority therefor, and only in the instances, to the extent, and in the manner provided for by the statute. The power to make rules or orders for the imposition of costs exists only where it is given or ratified by statute."*⁴⁰ (20 C.J.S., p. 259.) (Emphasis supplied.)

While the denial of attorney's fees as costs in this case was, in principle, correct, it was error for the judge to perform the duty that was incumbent at the first instance upon the clerk of court per Our ruling in *Romulo v. Dasalla*⁴¹:

The Rules outline the mode by which costs are taxed:

"In inferior courts, the costs shall be taxed by the justice of the peace or municipal judge and include them in the judgment. In superior courts, costs shall be taxed by the clerk on five days written notice given by the prevailing party to the adverse party. With this notice shall be served a statement of the items of costs claimed by the prevailing party, verified by his[/her] oath or that of his[/her] attorney, objections to the taxation shall be made in writing, specifying the items objected to. Either party may appeal to the court from the clerk's taxation. The costs shall be inserted in the judgment if taxed before its entry, and payment thereof shall be enforced by execution." (Section 8, Rule 131, Rules of Court).

This procedure must be strictly complied with before execution as to costs may be had. So, even if the decision wherein costs were granted, had already become final, that does not hold true for the costs, for the payment of which the law prescribes that certain steps be first taken, such

³⁸ RULES OF COURT, Rule 32, sec. 13. *Compensation of commissioner.* — The court shall allow the commissioner such reasonable compensation as the circumstances of the case warrant, to be *taxed as costs against the defeated party, or apportioned, as justice requires.* (Emphasis supplied)

³⁹ 100 Phil. 529 (1956) [Per J. Bautista Angelo, *En Banc*].

⁴⁰ *Id.* at 531.

⁴¹ 108 Phil. 346 (1960) [Per J. Gutierrez David, *En Banc*].

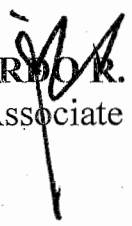
as the assessment by the clerk of court, and the appeal, if any, from that assessment to the court, and unless these steps are taken, the judgment as to costs cannot be executed. If the writ of execution of the award for costs was issued by the clerk of court *motu proprio*, before costs were assessed and their amount fixed, and while an appeal from the taxation made by the clerk of court was pending determination by this Court, such writ of execution as well as the sale at public auction made by the sheriff to implement it, are both null and void for having been carried out in contravention of Section 8, Rule 131, Rules of Court.

*Herein, taxation of the costs was never made by the clerk of court. If costs had been properly taxed, appellants would have submitted the assessment of costs made by the clerk of court, for it, together with the bill of costs, is the proper evidence to prove that the required procedure had been followed.*⁴² (Emphasis supplied; citations omitted)

Unlike in inferior courts where costs of suit are assessed by the judge, in superior courts, the payment of costs of suit requires that an assessment be made by the clerk of court, and the appeal, if any, from that assessment to the court. The assessment or so-called “taxation of costs” is a condition precedent to the obligation to pay them, to the power of the court to pass on disputed items, or to the inclusion of costs in an execution. Thus, the court cannot pass on a disputed item before there has been a taxation of costs, and it is improper to include in an execution a gross sum as costs which have not been taxed.⁴³ It is only when an appeal has been made to the court from the clerk’s taxation that the court takes part in the taxation of costs, not otherwise. Thus, instead of denying outright the amount of PHP 348,014.00 as “additional cost of suit,” the judge should have directed the clerk of court to make an assessment in accordance with the rates specified in the Rules.

ACCORDINGLY, the Petition is **DENIED**. The case is **REMANDED** to Branch 97, Regional Trial Court, Quezon City, which is **ORDERED** to direct its clerk of court to assess the costs of suit in accordance with this Decision and Rule 142 of the Rules of Court.

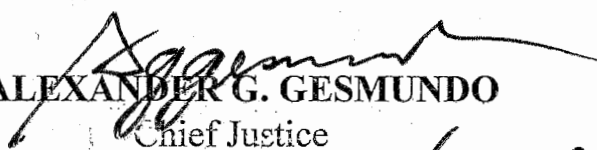
SO ORDERED.


RICARDO R. ROSARIO
Associate Justice

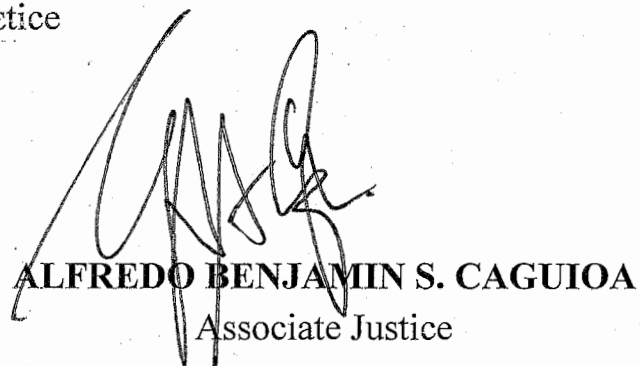
⁴² *Id.* at 350–351.

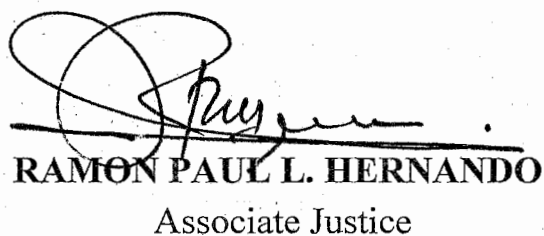
⁴³ MARTIN, RULES OF COURT IN THE PHILIPPINES, Vol. 6, 2nd ed., p. 315, *citing* 20 C.J.S. 505.

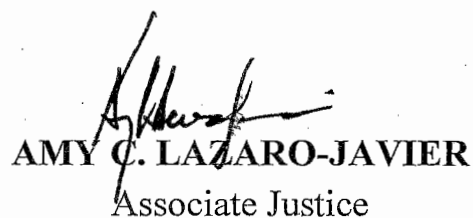
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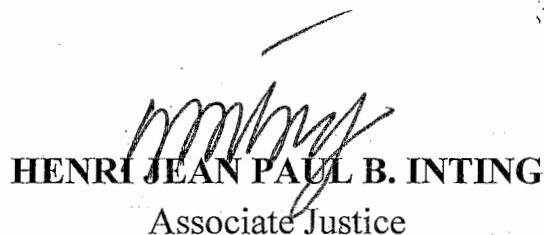

ALEXANDER G. GESMUNDO
Chief Justice


MARVIC M.V.F. LEONEN
Associate Justice

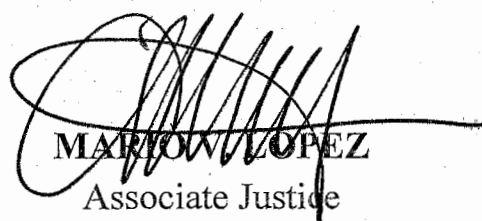

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

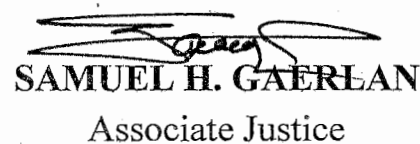

RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

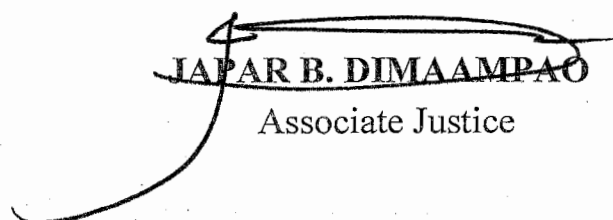

HENRI JEAN PAUL B. INTING
Associate Justice

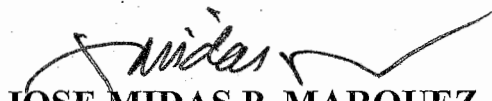

RODIL V. ZALAMEDA
Associate Justice


MARLON LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

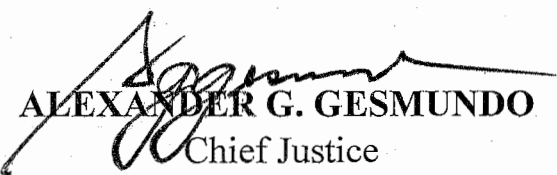

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

ON LEAVE
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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 this Court.


ALEXANDER G. GESMUNDO
Chief Justice