Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DEPARTMENT OF AGRARIAN REFORM, represented by SECRETARY NASSER C. PANGANDAMAN, Petitioner, - versus - **SPOUSES DIOSDADO STA. ROMANA and RESURRECCION O. RAMOS, represented by AURORA STA. ROMANA, PURIFICACION C. DAEZ, represented by EFREN D. VILLALUZ and ROSAURO D. VILLALUZ, and SPOUSES LEANDRO C. SEVILLA and MILAGROS C. DAEZ,** Respondents.	**G.R. No. 183290*** Present: CARPIO, *J.*, Chairperson, BRION, PERALTA,** PEREZ, and PERLAS-BERNABE, *JJ.* Promulgated: JUL 09 2014

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RESOLUTION

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated March 27, 2008 and the Resolution[3] dated June 12, 2008 rendered by the Court of Appeals (CA) in CA-G.R. SP Nos. 93132 and 93240 which affirmed the Decision[4] dated October 18, 2005 of the Regional Trial Court of

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* The instant petition was consolidated with G.R. Nos. 183298-99 which, however, was subsequently withdrawn by the petitioner in the said cases. See Resolutions dated September 29, 2008 and January 18, 2010; *rollo* (G.R. No. 183290), pp. 95 and 161.

** Designated Additional Member per Raffle dated December 9, 2013.

1 *Rollo* (G.R. No. 183290), pp. 9-28.

2 Id. at 33-47. Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Mariano C. Del Castillo (now Supreme Court Associate Justice) and Arcangelita Romilla-Lontok, concurring.

3 Id. at 49-50.

4 *Rollo* (G.R. Nos. 183298-99), pp. 120-124. Penned by Judge Ismael P. Casabar.

Guimba, Nueva Ecija, Branch 33 (RTC) in AGR. Case No. 1163-G,[5] fixing the just compensation for respondents' 21.2192-hectare (ha.) land at ₱2,576,829.94 or ₱121,438.60/ha., and ordering the Land Bank of the Philippines (LBP) to pay the said amount in the manner provided by law.

The Facts

Respondents, spouses Diosdado Sta. Romana and Resurreccion O. Ramos, represented by Aurora Sta. Romana, Purificacion C. Daez, represented by Efren D. Villaluz and Rosauro D. Villaluz, and spouses Leandro C. Sevilla and Milagros C. Daez, are the owners of a 27.5307-ha. agricultural land situated in San Jose City, Nueva Ecija, covered by Transfer Certificate of Title No. NT-66211.[6] Petitioner, the Department of Agrarian Reform (DAR), compulsorily acquired a 21.2192-ha. portion (subject land) of respondents' property pursuant to the government's Operation Land Transfer Program[7] under Presidential Decree No. (PD) 27,[8] otherwise known as the "Tenants Emancipation Decree," as amended. On November 29, 1995, the DAR caused the generation of emancipation patents (EPs) in favor of the farmer-beneficiaries,[9] and, in 1996, the LBP fixed the value of the subject land at ₱361,181.87[10] (LBP valuation) using the formula[11] under Executive Order No. (EO) 228[12] and DAR Administrative Order No. (AO) 13, series of 1994,[13] *i.e.*, **LV = (2.5 x AGP x ₱35.00) x (1.06)^{n}**.[14] Under this formula, the government support price (GSP) for one (1) cavan of palay was pegged at ₱35.00, which is the GSP price set on the date of PD 27's effectivity on October 21, 1972.[15]

Dissatisfied with the LBP valuation, respondents filed a Petition for Approval and Appraisal of Just Compensation before the RTC, docketed as

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5 SAC Case No. 1163-G in some parts of the records.

6 *Rollo* (G.R. No. 183298-99), p. 120.

7 See *rollo* (G.R. No. 183290), pp. 34-35.

8 Entitled "DECREEING THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL, TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR."

9 *Rollo* (G.R. No. 183290), p. 34.

10 See LBP Claims Processing Form; id. at 112-115.

11 Where:

LV = Land Value
AGP = Average Gross Production in cavan of 50 kilos in accordance with DAR Memorandum Circular No. 26, series of 1973
₱35.00 = Government Support Price (GSP) of palay in 1972 pursuant to Executive Order No. 228
n = number of years from date of tenancy up to the effectivity date of DAR AO No. 13, series of 1994.

12 Entitled "DECLARING FULL LAND OWNERSHIP TO QUALIFIED FARMER BENEFICIARIES COVERED BY PRESIDENTIAL DECREE NO. 27: DETERMINING THE VALUE OF REMAINING UNVALUED RICE AND CORN LANDS SUBJECT TO P.D. NO. 27; AND PROVIDING FOR THE MANNER OF PAYMENT BY THE FARMER BENEFICIARY AND MODE OF COMPENSATION TO THE LANDOWNER."

13 Entitled "RULES AND REGULATIONS GOVERNING THE GRANT OF INCREMENT OF SIX PERCENT (6%) YEARLY INTEREST COMPOUNDED ANNUALLY ON LANDS COVERED BY PRESIDENTIAL DECREE NO. 27 AND EXECUTIVE ORDER NO. 228."

14 *Rollo* (G.R. No. 183290), p. 35.

15 Id. at 41.

AGR. Case No. 1163-G, averring that: (*a*) the LBP valuation was grossly inadequate considering the subject land's proximity to subdivision lots and commercial establishments; and (*b*) the fair market value of the subject land should be fixed in the amount of at least ₱300,000.00/ha. as some beneficiaries were even selling their lands to subdivision developers at the price of ₱1,000,000.00/ha.[16]

On the other hand, the LBP insisted on the correctness of the valuation, having been computed in accordance with the formula under EO 228 which governs the determination of just compensation due a landowner whose property was seized under PD 27. For its part, the DAR maintained that the proper procedure relevant to the determination of the valuation was followed, hence, the amount of ₱361,181.87 or ₱4,719.77/ha. was in keeping with the mandate of PD 27.[17]

The RTC appointed two[18] (2) commissioners for the purpose. On August 27, 2004, the commissioners submitted their report, recommending the amount of ₱300,000.00/ha. as reasonable compensation for the subject land.[19]

The RTC Ruling

On October 18, 2005, the RTC rendered a Decision[20] rejecting the LBP valuation and fixing the just compensation of the subject land at ₱2,576,829.94 or ₱121,438.60/ha. It explained that while respondents' land was acquired pursuant to PD 27, the same is covered by Republic Act No. (RA) 6657,[21] otherwise known as the "Comprehensive Agrarian Reform Law of 1988," as amended, which provides that in determining just compensation, the factors under Section 17 of RA 6657, as amended, should be considered.[22] It likewise pointed out that the Court, in the case of *LBP v. Spouses Banal*,[23] had declared that the abovementioned factors have already been translated into a basic formula in DAR AO 6, series of 1992,[24] as amended by DAR AO 11, series of 1994,[25] *i.e.*, **LV = (CNI +**

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16 *Rollo* (G.R. No. 183290), p. 36.
17 Id. at 36-37.
18 *Rollo* (G.R. Nos. 183298-99), p. 121.
19 *Rollo* (G.R. No. 183290), p. 37.
20 *Rollo* (G.R. Nos. 183298-99), pp. 120-124.
21 Entitled "AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES."
22 *Rollo* (G.R. Nos. 183298-99), pp. 122-123.
23 478 Phil. 701 (2004).
24 Entitled "RULES AND REGULATIONS AMENDING THE VALUATION OF LANDS VOLUNTARILY OFFERED AND COMPULSORILY ACQUIRED AS PROVIDED FOR UNDER ADMINISTRATIVE ORDER NO. 17, SERIES OF 1989, AS AMENDED, ISSUED PURSUANT TO REPUBLIC ACT NO. 6657."
25 Entitled "REVISING THE RULES AND REGULATIONS COVERING THE VALUATION OF LANDS VOLUNTARILY OFFERED OR COMPULSORILY ACQUIRED AS EMBODIED IN ADMINISTRATIVE ORDER NO. 06, SERIES OF 1992." (See also *rollo* [G.R. Nos. 183298-99], p. 123.)

0.6) + (CS x 0.3) + (MV x 0.1).[26] Considering the availability of only the **CS**[27] and **MV**[28] factors, the RTC applied the formula **LV = (CS x 0.9) + (MV x 0.1)** in fixing the just compensation for the subject land.[29]

The DAR and the LBP filed separate motions for reconsideration which were, however, denied by the RTC. Hence, they filed separate appeals before the CA, respectively docketed as CA-G.R. SP Nos. 93132 and 93240, that were, thereafter, consolidated by the CA on August 31, 2006.[30]

The CA Ruling

In a Decision[31] dated March 27, 2008, the CA affirmed the RTC Decision, explaining that the expropriation of a landholding covered by PD 27, such as that of the subject land, is not considered to have taken place on the effectivity of the said decree, or on October 21, 1972, but at the time payment of just compensation is made, as judicially determined. Thus, it would be inequitable to base the amount of just compensation on the guidelines provided by PD 27 and EO 228 when the seizure of the subject land took place after the enactment of RA 6657[32] on June 15, 1988. The acquisition of the subject land having been initiated only in 1995, the LBP valuation using the formula under EO 228 was confiscatory, as just compensation should constitute the full and fair equivalent of the property when it is taken. Considering that the agrarian reform process remained incomplete as the payment of the just compensation for the subject land has yet to be made, and in view of the passage of RA 6657 in the interim, the CA upheld the RTC valuation as having been computed in accordance with Section 17 of RA 6657, as amended.[33]

The motions for reconsideration filed by the DAR and the LBP were

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[26] Where:

LV = Land Value
CNI = Capitalized Net Income
CS = Comparable Sales
MV = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant, and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:
LV = (CNI x 0.9) + (MV x 0.1)

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:
LV = (CS x 0.9) + (MV x 0.1)

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:
LV = MV x 2
x x x x

[27] Acquisition of a 5.5825-ha. landholding situated in the same locality owned by one Virgilio Geraldez who was paid the amount of ₱129,114.00/hectare. (See *Rollo* [G.R. Nos. 183298-99], p. 124.)

[28] ₱52,360.00 market value per respondents' tax declaration; id.

[29] Id.

[30] *Rollo* (G.R. No. 183290), p. 40.

[31] Id. at 33-47.

[32] Id. at 42.

[33] Id. at 45-46.

denied in a Resolution[34] dated June 12, 2008, hence, the instant petition by the DAR which was subsequently consolidated[35] with the LBP's petition in **G.R. Nos. 183298-99**.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the subject land was properly valued in accordance with the factors set forth in Section 17 of RA 6657, as amended.

The Proceedings Before the Court

In a Resolution[36] dated October 12, 2009, the parties were directed to file their respective memoranda. In lieu of a memorandum, however, the LBP filed a manifestation and motion[37] (motion to withdraw and to remand) in G.R. Nos. 183298-99 (*a*) averring that the matter of computation of just compensation had been rendered moot and academic by the enactment of RA 9700,[38] which ordains that when the valuation of previously acquired lands is challenged by the landowner, the same shall be completed and finally resolved pursuant to Section 17 of RA 6657, as amended;[39] and (*b*) praying that it be allowed to withdraw its petition and that the case be remanded to the RTC for re-computation of the just compensation of the subject land[40] based on the factors set forth under Section 17 of RA 6657, as amended, in relation to Section 5[41] of RA 9700.

The respondents in the said cases, who are the same respondents in the

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34 Id. at 49-50.

35 See Resolution dated September 29, 2008; id. at 95.

36 Id. at 149-150.

37 Id. at 151-158.

38 Entitled "AN ACT STRENGTHENING THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP), EXTENDING THE ACQUISITION AND DISTRIBUTION OF ALL AGRICULTURAL LANDS, INSTITUTING NECESSARY REFORMS, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6657, OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR."

39 *Rollo* (G.R. No. 183290), pp. 152-153 and 156.

40 Id. at 156.

41 Section 5 of RA 9700 pertinently provides:

> Sec. 5. Section 7 of Republic Act No. 6657, as amended, is hereby further amended to read as follows:
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> "SEC. 7. *Priorities*. - The DAR, in coordination with the Presidential Agrarian Reform Council (PARC) shall plan and program the final acquisition and distribution of all remaining unacquired and undistributed agricultural lands from the effectivity of this Act until June 30, 2014. Lands shall be acquired and distributed as follows:
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> "Phase One: x x x <u>all previously acquired lands wherein valuation is subject to challenge by landowners shall be completed and finally resolved pursuant to Section 17 of Republic Act No. 6657, as amended</u>: x x x
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> x x x x"

instant case, did not oppose the motion to withdraw and to remand, which the Court granted in a Resolution[42] dated January 18, 2010. Neither did they file any motion for reconsideration therefrom.

On the other hand, the DAR filed a memorandum,[43] praying for the adoption of the LBP valuation for the subject land, *or in the alternative*, for a similar **remand** of the case to the RTC for further proceedings to determine the value of the land in accordance with existing provisions of law and applicable administrative issuances.

The Court's Ruling

Settled is the rule that when the agrarian reform process is still incomplete, as in this case where the just compensation for the subject land acquired under PD 27 has yet to be paid, just compensation should be determined and the process concluded under RA 6657,[44] with PD 27 and EO 228 having mere suppletory effects. This means that PD 27 and EO 228 only apply when there are *gaps* in RA 6657; where RA 6657 is sufficient, PD 27 and EO 228 are superseded.[45]

For purposes of determining just compensation, the fair market value of an expropriated property is determined by its *character* and its *price* at the time of *taking*.[46] In addition, the factors enumerated under Section 17 of RA 6657,[47] *i.e.*, (*a*) the acquisition cost of the land, (*b*) the current value of like properties, (*c*) the nature and actual use of the property, and the income therefrom, (*d*) the owner's sworn valuation, (*e*) the tax declarations, (*f*) the assessment made by government assessors, (*g*) the social and economic benefits contributed by the farmers and the farmworkers, and by the government to the property, and (*h*) the non-payment of taxes or loans secured from any government financing institution on the said land, if any, must be equally considered.

The Court has gone over the records and observed that the only factors considered by the RTC in determining the just compensation for the subject land were (*a*) the acquisition price of a 5.5825-ha. landholding situated in the same locality paid to the owner on November 17, 1997,[48] and (*b*) the market value of the subject land declared by the respondents, without a showing that the other factors under Section 17 of RA 6657, as amended, were even taken into account or, otherwise, found to be inapplicable, contrary to what the law requires. Consequently, the CA erred in upholding the RTC's

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42 *Rollo* (G.R. No. 183290), p. 161.
43 Id. at 162-172.
44 *LBP v. Santiago, Jr.*, G.R. No. 182209, October 3, 2012, 682 SCRA 264, 277.
45 *LBP v. Heirs of Maximo Puyat*, G.R. No. 175055, June 27, 2012, 675 SCRA 233, 243.
46 *LBP v. Livioco*, G.R. No. 170685, September 22, 2010, 631 SCRA 86, 100.
47 *LBP v. Santiago, Jr.*, supra note 44, at 286.
48 *Rollo* (G.R. Nos. 183298-99), pp. 121 and 124.

valuation as having been made in accordance with Section 17 of RA 6657, as amended.

This, considering too that the records of **AGR. Case No. 1163-G** on **LBP's petition for review**, docketed as G.R. Nos. 183298-99, had already been remanded to the RTC, the Court finds that there is a need to make a similar remand of **DAR's present petition in this case also stemming from AGR. Case No. 1163-G to the same RTC** for the determination of just compensation in accordance with Section 17 of RA 6657, as amended. Aside from the requirement and need to apply the factors under Section 17 of RA 6657, as amended, this course of action is also meant to avoid the possibility of any conflict or inconsistency with any eventual ruling in AGR. Case No. 1163-G. To this end, the RTC is hereby directed to observe the following guidelines in the remand of the case:

1. ***Just compensation must be valued at the time of taking***, or the time when the landowner was deprived of the use and benefit of his property, such as when title is transferred in the name of the Republic of the Philippines.[49] Hence, the evidence to be presented by the parties before the trial court for the valuation of the subject land must be based on the values prevalent on such time of taking for like agricultural lands.[50]

2. ***The evidence must conform with Section 17 of RA 6657, as amended, prior to its amendment by RA 9700***. It bears pointing out that while Congress passed RA 9700 on July 1, 2009, amending certain provisions of RA 6657, as amended, among them, Section 17, and declaring "(t)hat all previously acquired lands wherein valuation is subject to challenge by landowners shall be completed and finally resolved pursuant to Section 17 of [RA 6657], as amended,"[51] the law should not be retroactively applied to pending claims/cases. In fact, DAR AO 2, series of 2009,[52] implementing RA 9700, expressly excepted from the application of the amended Section 17 all claim folders received by LBP prior to July 1, 2009, which shall be valued in accordance with Section 17 of RA 6657, as amended, prior to its further amendment by RA 9700.[53]

With this in mind, the Court, cognizant of the fact that the instant petition for review on *certiorari* was filed on July 21, 2008,[54] or long before the passage of RA 9700, finds that **Section 17 of RA 6657, as amended,**

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49 *LBP v. Livioco*, supra note 46, at 112-113.

50 Id. at 114.

51 See Section 5 of RA 9700 which further amended Section 7 of RA 6657, as amended on the "Priorities" in the acquisition and distribution of agricultural lands.

52 Entitled "RULES AND PROCEDURES GOVERNING THE ACQUISITION AND DISTRIBUTION OF AGRICULTURAL LANDS UNDER REPUBLIC ACT (R.A.) NO. 6657, AS AMENDED BY R.A. NO. 9700."

53 *LBP v. Heirs of Maximo Puyat*, supra note 45, at 248.

54 *Rollo* (G.R. No. 183290), p. 9. The DAR's motion for extension to file petition for review on *certiorari* (id. at 2-4) filed on July 1, 2008 was granted by the Court in the Resolution dated July 16, 2008 (id. at 7).

prior to its further amendment by RA 9700, should control the challenged valuation. In the event that the respondents had already withdrawn the amount deposited by the LBP, the withdrawn amount should be deducted from the final land valuation to be paid by LBP.[55]

3. ***The Regional Trial Court may impose interest on the just compensation award as may be warranted by the circumstances of the case***.[56] In previous cases, the Court has allowed the grant of legal interest in expropriation cases where there is delay in the payment since the just compensation due to the landowners was deemed to be an effective forbearance on the part of the State.[57] Legal interest shall be pegged at the rate of 12% interest per annum (p.a.). from the time of taking until June 30, 2013 only. Thereafter, or beginning July 1, 2013, until fully paid, the just compensation due the landowners shall earn interest at the new legal rate of 6% interest p.a. in line with the amendment introduced by BSP-MB Circular No. 799,[58] series of 2013.[59]

4. The Regional Trial Court is reminded, however, that while it should take into account the different formula created by the DAR in arriving at its just compensation valuation, ***it is not strictly bound thereto if the situations before it do not warrant their application***. As held in *LBP v. Heirs of Maximo Puyat*:[60]

> [T]he determination of just compensation is a judicial function; hence, courts cannot be unduly restricted in their determination thereof. To do so would deprive the courts of their judicial prerogatives and reduce them to the bureaucratic function of inputting data and arriving at the valuation. While the courts should be mindful of the different formulae created by the DAR in arriving at just compensation, they are not strictly bound to adhere thereto if the situations before them do not warrant it. *Apo Fruits Corporation v. Court of Appeals* thoroughly discusses this issue, to wit:
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> > "x x x [T]he basic formula and its alternatives–administratively determined (as it is not found in Republic Act No. 6657, but merely set forth in DAR AO No. 5, Series of 1998)–although referred to and even applied by the courts in certain instances, does not and cannot strictly bind the courts. To insist that the formula must be applied with utmost rigidity whereby the valuation is drawn following a strict mathematical computation goes beyond the intent and spirit of the law. The suggested interpretation is strained and would render the law inutile. Statutory construction should not kill but give life to the law. As we have established in earlier jurisprudence, the valuation of property in eminent domain is essentially a judicial function which is vested in the regional trial court acting as a SAC, and

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55 *LBP v. Livioco*, supra note 46, at 116.
56 Id.
57 *LBP v. Santiago, Jr.*, supra note 44, at 282-283.
58 Rate of interest in the absence of stipulation; dated June 21, 2013.
59 See *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439.
60 Supra note 45.

> not in administrative agencies. The SAC, therefore, must still be able to reasonably exercise its judicial discretion in the evaluation of the factors for just compensation, which cannot be arbitrarily restricted by a formula dictated by the DAR, an administrative agency. Surely, DAR AO No. 5 did not intend to straightjacket the hands of the court in the computation of the land valuation. While it provides a formula, it could not have been its intention to shackle the courts into applying the formula in every instance. The court shall apply the formula after an evaluation of the three factors, or it may proceed to make its own computation based on the extended list in Section 17 of Republic Act No. 6657, which includes other factors[.] x x x."[61]

WHEREFORE, the petition is **DENIED** insofar as it seeks to sustain the valuation of the 21.2192-hectare portion of respondents' property made by the Land Bank of the Philippines. The Decision dated March 27, 2008 and the Resolution dated June 12, 2008 rendered by the Court of Appeals in CA-G.R. SP Nos. 93132 and 93240 upholding the said valuation which did not consider the factors enumerated under Section 17 of Republic Act No. 6657, as amended, are hereby **REVERSED** and **SET ASIDE**. The Department of Agrarian Reform's petition stemming from **AGR. Case No. 1163-G** is **REMANDED** to the Regional Trial Court of Guimba, Nueva Ecija, Branch 33 for reception of evidence on the issue of just compensation in accordance with the guidelines set in this Decision. The trial court is directed to conduct the proceedings in said case with reasonable dispatch and to submit to the Court a report on its findings and recommended conclusions within sixty (60) days from notice of this Decision.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

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[61] Id. at 250-251.

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice