REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

PROVINCIAL GOVERNMENT OF CAGAYAN,
Petitioner,

-*versus*-

NATIONAL GRID CORPORATION OF THE PHILIPPINES,
Respondent.

CTA *EB* NO. 1271
(CTA OC No. 018)

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, *and*
Ringpis-Liban, JJ.

Promulgated:
JUL 01 2016 1:35 p.m.

x -- x

DECISION

BAUTISTA, J:

The Case

This is a Petition for Review under *Section 2(d)*[1], *Rule 4 and Section 4(b)*[2], *Rule 8 of the Revised Rules of the Court of Tax Appeals* ("RRCTA") seeking the nullification of the Resolutions of the First Division of the

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[1] "SECTION 2. *Cases Within the Jurisdiction of the Court En Banc.* — The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:
xxx xxx xxx
(d) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases; xxx"
[2] "SECTION 4. *Where to Appeal; Mode of Appeal.* — xxx
(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court en banc shall act on the appeal."

Court of Tax Appeals ("CTA") promulgated on September 29, 2014[3] and January 23, 2015[4] in the case of "*Provincial Government of Cagayan v. National Grid Corporation of the Philippines*" docketed as CTA OC No. 018, involving the collection of the assessed real property taxes ("RPT"); and the declaration that the tax collection case filed by petitioner against respondent is proper under *Section 231 of the Local Government Code* ("LGC").

The Parties[5]

Petitioner is a local government unit organized and existing under the laws of the Philippines and in accordance with the LGC.

Respondent is a corporation duly organized and existing under and by virtue of *Republic Act ("RA") No. 9511,* with principal office addresss at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City.

The Facts

Respondent received the Notice of Assessment ("NOA") dated October 3, 2011 and Statement of RPT Collections dated October 4, 2011, with an assessment covering the years 2001 to 2011, in the following total amounts:[6]

NAME OF OWNER	YEARS COVERED	ASSESSED VALUE	BASIC	SEF	TOTAL
NATIONAL GRID CORPORATION	2001-2011	1,118,260,000.00	11,182,600.00	11,182,600.00	22,365,200.00

Respondent filed its appeal to the NOA through a letter dated November 15, 2011,[7] and petitioner replied on January 18, 2012, amending the coverage of the assessment from 2009 to 2012, as

[3] *Records, CTA OC No. 018,* pp. 373-377, which granted the Motion to Dismiss filed by defendant, respondent herein; penned by Associate Justice Erlinda P. Uy, with Presiding Justice Roman G. del Rosario and Associate Justice Cielito N. Mindaro-Grulla concurring.
[4] *Id.,* pp. 482-486, which denied the Motion for Reconsideration filed by plaintiff, petitioner herein.
[5] *Rollo, CTA EB No. 1271, Memorandum for the Respondent,* p. 81; Memorandum for the Petitioner, pp. 115-116.
[6] *Records, Answer,* Annex "1," Sub-annexes "B" and "C," pp. 119-120; *Rollo, Complaint,* Annexes "B" and "C," pp. 67-68.
[7] *Id.,* Sub-annex "F," pp. 124-127; *Rollo, Complaint,* Annex "D," pp. 69-71.

indicated in its Statement of RPT Collections dated January 10, 2012, *viz.*:[8]

NAME OF OWNER	YEARS COVERED	ASSESSED VALUE	BASIC	SEF	TOTAL
NATIONAL GRID CORPORATION	2009-2012	406,640,000.00	4,066,400.00	4,066,400.00	8,132,800.00

Respondent filed a Petition[9] dated March 30, 2012 with the Local Board of Assessment Appeals ("LBAA") in the Province of Cagayan praying for the cancellation Tax Declaration No. 110022003; for the declaration that the real properties covered by the same are exempt from payment of RPT; for the direction that the said properties be dropped from the assessment roll; and for the prohibition against petitioner from further assessing, collecting and levying RPT over the said properties.

On September 2, 2013, petitioner updated the Statement of RPT Collections to include the year 2013:[10]

NAME OF OWNER	YEARS COVERED	ASSESSED VALUE	BASIC	SEF	PENALTY	TOTAL
NATIONAL GRID CORPORATION	2009-2013	508,300,000.00	5,083,000.00	5,083,000.00	5,489,640.00	15,655,640.00

On March 19, 2014, petitioner filed with the CTA a Complaint, docketed as CTA OC No. 018 for the collection of sum of money in the total amount of Php15,655,640.00.[11] The said case was raffled to the First Division.

On May 2, 2014, respondent filed its Answer, which includes a prayer for the dismissal of the Complaint.[12]

On July 21, 2014, respondent filed its Motion to Dismiss[13] on the following grounds:[14]

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[8] *Records, Answer,* Annex "1," Sub-annex "G," pp. 128, 130; *Rollo, Complaint,* Annexes "E" and "E-1," pp. 72-73.
[9] *Id., Petition for Review,* Petition, Annex "1," pp. 93-108.
[10] *Records, Complaint,* Annex "F," p. 74.
[11] *Id.,* pp. 12-74, with annexes.
[12] *Id., Answer,* pp. 83-153, with annexes.
[13] *Id., Motion to Dismiss,* pp. 251-293, with annexes.
[14] *Id.,* pp. 251-252, with annexes.

A. The Complaint states no cause of action against defendant;

B. The First Division lacks jurisdiction over the nature of the action; and

C. *Lis Pendens* or the pendency of another action between the same parties for the same cause and violation against the rule on forum shopping.

On August 11, 2014, petitioner filed its Comment/Opposition (On Motion to Dismiss).[15]

On September 29, 2014, the First Division promulgated the assailed Resolution,[16] the dispositive portion thereof reads as follows:[17]

> **WHEREFORE**, in light of the foregoing considerations, defendant's Motion to Dismiss is hereby **GRANTED**. The instant case is hereby **DISMISSED**, for lack of jurisdiction.
>
> **SO ORDERED**.

Not satisfied with the above Resolution, petitioner filed by registered mail a Motion for Reconsideration (On the Resolution dated 29 September 2014) on October 28, 2014.[18] Respondent filed its corresponding Opposition (To the Plaintiff's Motion for Reconsideration) on November 14, 2014.[19]

On January 23, 2015, the First Division issued the other assailed Resolution[20], where it held:[21]

> **WHEREFORE**, plaintiff's "**MOTION FOR RECONSIDERATION (ON THE RESOLUTION DATED 29 SEPTEMBER 2014)**["] filed on October 28, 2014 is hereby **DENIED** for lack of merit.

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[15] *Records, Comment/Opposition (On Motion to Dismiss)*, pp. 297-306.
[16] *Id., September 29, 2014 Resolution*, pp. 373-377.
[17] *Id.*, p. 377.
[18] *Id., Motion for Reconsideration (On the Resolution dated 29 September 2014)*, pp. 378-385.
[19] *Id., Opposition (To the Plaintiff's Motion for Reconsideration)*, pp. 391-397.
[20] *Id., January 23, 2015 Resolution*, pp. 482-486.
[21] *Id.*, p. 486.

SO ORDERED.

Upon the denial, petitioner filed its Motion for Additional Time (To File Petition for Review) with the Court *En Banc* asking for an extension of fifteen (15) days,[22] which was granted through a Minute Resolution[23] dated February 24, 2015.

On March 4, 2015, petitioner timely raised the instant case to the Court *En Banc* when it filed a Petition for Review[24] *via* registered mail, with the following prayer:[25]

> WHEREFORE, premises considered, petitioner most respectfully prays of this Honorable Court of Tax Appeals En Banc to:
>
> 1. REVERSE and SET ASIDE the Resolutions promulgated on 29 September 2014 and 23 January 2015, respectively, of the Honorable Court, First Division.
>
> 2. DECLARE that the tax collection case filed by [] petitioner against respondent is proper under [S]ection 231 of the LGC; [and]
>
> 3. Other reliefs just and equitable under the premises are also prayed for.

On April 29, 2015, respondent filed its Comment (To the Petition for Review).[26]

On May 22, 2015, the Court *En Banc* issued a Resolution ordering the parties to file their respective Memoranda within thirty (30) days.[27]

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[22] *Rollo*, pp. 1-3.
[23] *Id.*, p. 4, petitioner was given until March 4, 2015.
[24] *Id.*, *Petition for Review*, pp. 5-26, with annexes.
[25] *Id.*, p. 11.
[26] *Id.*, *Comment (To the Petition for Review)*, pp. 30-76, with annexes.
[27] *Id.*, pp. 78-79.

On July 3, 2015, Memorandum for Respondent[28] was filed, followed by Memorandum for the Petitioner[29] on August 7, 2015 by registered mail.

On September 9, 2015, the Court promulgated a Resolution submitting the case for decision, hence, this Decision.[30]

The Issues

Based on the Petition for Review[31] filed by petitioner, the grounds and issues of the case are the following:

GROUNDS FOR THE PETITION FOR REVIEW

I. THE HONORABLE COURT FIRST DIVISION ERRED IN RULING THAT IT HAS NO JURISDICTION [OVER] THE TAX COLLECTION CASE.

II. THE HONORABLE COURT ERRED IN FAILING TO RULE THAT THE ASSESSMENTS OF THE CITY/PROVINCIAL ASSESSOR ON REAL PROPERTIES IS "DEEMED FINAL AND EXECUTORY" UNDER SECTION 231 OF THE LGC FOR PURPOSES OF ENFORCING THE COLLECTION OF THE CORRESPONDING REAL PROPERTY TAXES THROUGH ANY OF THE REMEDIES UNDER SECTIONS 254 AND 256 OF THE LGC.

VI. ISSUES

I. WHETHER OR NOT THE HONORABLE COURT HAS JURISDICTION OVER THE TAX COLLECTION CASE FILED BY PETITIONER.

II. WHETHER OR NOT THE ASSESSMENTS OF THE ASSESSOR (CITY/PROVINCIAL) ON REAL PROPERTIES IS "DEEMED FINAL AND EXECUTORY" UNDER SECTION 231 OF THE LGC FOR PURPOSES OF ENFORCING THE COLLECTION OF THE SUBJECT REAL PROPERTY TAXES THROUGH ANY OF THE

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[28] *Rollo, Memorandum for Respondent,* pp. 80-113, with annexes.
[29] *Id., Memorandum for the Petitioner,* pp. 114-124.
[30] *Id.,* pp. 126-127.
[31] *Id., Petition for Review,* p. 8.

REMEDIES UNDER SECTIONS 254 AND 256 [OF] THE LGC.

The Ruling of the Court En Banc

The Court *En Banc* finds no merit in the instant Petition for Review.

In the Resolution[32] dated September 29, 2014, the First Division unanimously ruled as follows:

> We find merit in the instant motion.
>
> Admittedly, the latest statement of the real property tax against defendant, whether assessment or billing statement, dated September 2, 2013 in the amount of FIFTEEN MILLION SIX HUNDRED FIFTY FIVE THOUSAND SIX HUNDRED FORTY PESOS ([Php]15,655,640.00) plus legal interest, was not previously served upon, nor received by defendant NGCP, except through the instant complaint.
>
> It is likewise admitted by plaintiff that the Notice of Assessment dated October 3, 2011 issued by the provincial assessor was timely contested by defendant through the filing of appropriate appeal, before the Local Board of Assessments Appeal or LBAA of the Province of Cagayan pursuant to Section 226 of the Local Government Code, which provides:
>
>> "Section 226. ***Local Board of Assessment Appeals***.- Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with the copies of the tax declarations and such affidavits or documents submitted in support of the appeal."
>
> Considering that an appeal has been timely filed by defendant before the LBAA of the Province of Cagayan, this

[32] *Records, September 29, 2014 Resolution,* pp. 375-377.

Court has no jurisdiction to take cognizance of the instant collection case. It is this Court's considered view that said assessment cannot be considered as final and executory for purposes of initiating a tax collection case before this Court because questions on the correctness of the assessment, as well as defendant's liability on the merits, is yet to be resolved by the LBAA.

Plaintiff, however, contends that the subject assessment has attained finality because defendant failed to pay the real property tax under protest as required by Section 252 of the LGC. In support thereof, plaintiff cites the case of *Camp John Hay vs. Central Board Assessment Appeals*. Plaintiff further argues that Section 231 of the LGC "presumes" the assessment made by the local assessor as deemed "final and executory" for the local government unit to enforce collection of tax.

We are not persuaded.

There is nothing in the *Camp John Hay* case or in Section 252 of the LGC which categorically states that the failure to pay real property tax before an appeal is made with the LBAA will render an assessment final and executory and the right of the local government unit to collect the taxes due before this Court becomes absolute. To be sure, what the said case merely upheld is the requirement for a taxpayer questioning the correctness of an assessment to pay the real property taxes due before a protest or an appeal may be entertained. And in said case, after finding that the taxpayer therein was required under the premises to first pay the real property taxes due before his appeal with the LBAA may be entertained, the Supreme Court remanded the case to the LBAA for further proceedings subject to a full and up-to-date payment, either in cash or surety, of realty tax on the subject properties.

Now, as regards plaintiff's assertion in the instant case that defendant NGCP should have paid the assessed real property tax under protest before its appeal on the assessment may be entertained by the LBAA, as in the afore-quoted jurisprudence, this Court is not empowered to make the said directive. The issue on whether defendant NGCP is required to pay the real property tax under protest is a matter within the primary jurisdiction of the LBAA of the Province of Cagayan, where said appeal is pending.

Jurisprudence dictates that, in general, before a party may seek the intervention of the court, he should first avail of all the means afforded him by administrative processes. The

> issues which administrative agencies are authorized to decide should not be summarily taken from them and submitted to a court without first giving such administrative agency the opportunity to dispose of the same after due deliberation.
>
> Corollary thereto, under the doctrine of primary jurisdiction, courts cannot or will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact.
>
> Finally, as regards plaintiff's contention that Section 231 of [the] LGC presumes an assessment issued by the local assessor as deemed final and executory and thus well within the jurisdiction of the Court, it bears to reiterate that this Court can only take cognizance of matters clearly within its jurisdiction, it cannot be presumed or implied.
>
> Considering that this Court has no jurisdiction to entertain the instant Complaint, the other issues raised by both parties need not be resolved by this Court.

In denying[33] petitioner's Motion for Reconsideration (On the Resolution dated 29 September 2014) filed on October 28, 2014, the First Division expounded on the propriety of its September 29, 2014 Resolution, *viz.*:[34]

> Nevertheless, We reiterate that the instant collection case must be dismissed on the ground that this Court is without jurisdiction to entertain the same. If the court clearly has no jurisdiction over the nature of an action, its authority is to dismiss the case. The court could not decide the case on the merits.
>
> In defining CTA's jurisdiction, Section 7(c) of Republic Act (R.A.) No. 9282, amending R.A. No. 1125, otherwise known as the Law Creating the Court of Tax Appeals, limited this Court's authority to hear and decide collection cases on first instance to those involving final and executory assessments and the principal amount of taxes and fees, exclusive of charges

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[33] *Records, January 23, 2015 Resolution,* pp. 482-486.
[34] *Id.,* pp. 484-486; emphases supplied.

and penalties, claimed therein is at least [Php]1,000,000.00. Said provision reads:

> "(c) Jurisdiction over tax collection cases as herein provided:
>
> (1) Exclusive original jurisdiction in tax collection cases involving **final and executory assessments**

From the outset, the Court *En Banc* finds it necessary to discuss the process through which appeals against RPT assessments undergo before reaching the CTA.

Sections 226 and 229(a), Chapter III of the 1991 LGC, provides that assessments may be appealed before the LBAA within sixty (60) days from the receipt of the written NOA and the LBAA shall decide the same within one hundred twenty (120) days from receipt thereof, to wit:[35]

> CHAPTER III
> Assessment Appeals
>
> SECTION 226. Local Board of Assessment Appeals. — Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.
>
> xxx xxx xxx
>
> SECTION 229. Action by the Local Board of Assessment Appeals. — (a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.

[35] Underscoring ours.

Should the appellant wish to appeal the decision of the LBAA, it has thirty (30) days from receipt of the same to file its appeal with the Central Board of Assessment Appeals ("CBAA"). It must be noted that the final and executory character of the decision is only mentioned relating to that of the CBAA. *Section 229(c), Chapter III of the 1991 LGC* provides:[36]

> SECTION 229. Action by the Local Board of Assessment Appeals. — xxx
>
> (c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board, may, within thirty (30) days after receipt of the decision of said Board, appeal to the Central Board of Assessment Appeals, as herein provided. The decision of the Central Board shall be final and executory.

Applying the foregoing to the case at bar, the Petition[37] which respondent filed with the LBAA questions the assessment issued by the provincial assessor, imposing RPT on respondent's realties for the years 2009 to 2012. Hence, respondent's remedy is to question the assessment before the LBAA. In case of unsatisfactory decision, respondent's recourse is to the CBAA on appeal. At this point and based on the records, the RPT assessment case is still pending with the LBAA.

However, *Section 231, Chapter III of the 1991 LGC* expressly states that notwithstanding the appeal on the RPT assessment, the same shall not toll or suspend the collection of realty taxes:[38]

> SECTION 231. Effect of Appeal on the Payment of Real Property Tax. — Appeal on assessments of real property made

[36] Underscoring ours.
[37] *Records, Answer,* Annex "1," pp. 93-108.
[38] Underscoring ours.

> under the provisions of this Code shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal.

Hence, pursuant to the above stated provision and on March 19, 2014, petitioner filed a Complaint for collection of sum of money with the First Division of the CTA.

While the Court *En Banc* agrees with petitioner that the collection is not tolled by the pendency of the RPT assessment, there is a need to determine whether the Court in Division has jurisdiction over the case.

Scattered all over *Sections 1 and 3, Rule 4 of A.M. No. 05-11-07-CTA*[39] as amended, are provisions relating to the CTA Division's jurisdiction over tax collection cases, to wit:[40]

> RULE 4
> Jurisdiction of the Court
>
> SECTION 1. Jurisdiction of the Court. — The Court shall exercise exclusive original jurisdiction over or appellate jurisdiction to review by appeal the cases specified in Republic Act No. 1125, Section 7, as amended by Republic Act No. 9282, Section 7. (n)
>
> xxx xxx xxx
>
> SECTION 3. *Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:
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> xxx xxx xxx
>
> (c) Exclusive jurisdiction over tax collection cases, to wit:
>
> (1) Original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; and

[39] Revised Rules of the CTA, November 22, 2005.
[40] Underscoring ours.

> (2) Appellate jurisdiction over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them within their respective territorial jurisdiction. (*n*)

Section 1 of A.M. No. 05-11-07-CTA above refers to the following provisions in *Republic Act No. 1125*[41], as amended[42]:[43]

> SECTION 7. Jurisdiction. — The CTA shall exercise:
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> xxx xxx xxx
>
> (c) Jurisdiction over tax collection cases as herein provided:
>
> (1) Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: Provided, however, That collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court and Regional Trial Court.
>
> (2) Exclusive appellate jurisdiction in tax collection cases:
>
> (a) Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them, in their respective territorial jurisdiction.
>
> (b) Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction.

It is evident from the foregoing that the CTA Division only has (1) original jurisdiction over tax collection cases which are final and executory and with principal amount of taxes and fees of at least Php1

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[41] An Act Creating the CTA, June 16, 1954.
[42] By RA Nos. 9282 and 9503,
[43] Underscoring ours.

Million and (2) appellate jurisdiction over appeals from judgments, resolutions or orders of the RTC involving tax collection cases.

As to the first instance, while the present tax collection case exceeds Php1 Million since the amount involved is Php10,166,000.00 (representing basic RPT and Special Education Fund but excluding penalties), the same has not yet attained finality due to its pendency with the LBAA. With regard to the second instance, the collection case was not coursed through the RTC, mainly since the latter has no jurisdiction over it. Therefore, the First Division did not err in dismissing the Complaint filed by petitioner for lack of jurisdiction.

WHEREFORE, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the assailed Resolutions of the First Division of the Court of Tax Appeals promulgated on September 29, 2014 and January 23, 2015 are hereby **AFFIRMED.**

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to *Section 13 of Article VIII of the Constitution,* it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of this Court.

ROMAN G. DEL ROSARIO
Presiding Justice