REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

ROYAL CARIBBEAN CRUISES LTD., doing business under the name RCL REGIONAL OPERATING HEADQUARTERS,
Respondent.

CTA *EB* NO. 2886
(CTA Case No. 10256)

Present:

RINGPIS-LIBAN, *APJ.*,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

DEC 0 2 2025 11:55 am

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review dated April 4, 2024[1] under *Rule 8, Section 4(b) of the Revised Rules of the Court of Tax Appeals, as amended* (*RRCTA*), assailing the Decision dated November 7, 2023[2] ("Assailed Decision"), and Resolution, dated February 27, 2024[3] ("Assailed Resolution"), both rendered by this Court's Special Second Division ("Court in Division"), which granted herein respondent's February 7, 2020 Petition for Review, and ruled that respondent is entitled to a refund of the 15% FWT erroneously paid amounting to ₱20,737,902.28.

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[1] *Rollo*, pp. 5-14.
[2] Division Docket, Vol. II, pp. 761-785.
[3] *Id.*, pp. 804-806

The Parties

Petitioner Commissioner of Internal Revenue (CIR) is the head of the Bureau of Internal Revenue (BIR), with office address at the Office of the CIR, BIR National Building, Quezon City, but may be served with summons, notices, and court processes at the Legal Division of Revenue Region 8B - South NCR located at the 2nd Floor, BIR Building, 313 Gil Puyat Avenue, Makati City.[4]

Respondent is the regional operating headquarters (ROHQ) in the Philippines of Royal Caribbean Cruises Ltd., a multinational company organized and existing under the laws of Liberia. It was issued a License to Transact Business in the Philippines under SEC License No. FS201624326 issued by the Securities and Exchange Commission (SEC) on October 18, 2016, with its principal business address at 12/F Unit 1201-P, Pacific Drive, Five E-com Center Building, Harbor Drive, Mall of Asia Complex, Pasay City.[5]

The Facts

For the year 2018, herein respondent paid to the BIR Final Withholding Tax (FWT) amounting to ₱20,737,902.28, based on the preferential rate of 15% under *Section 25(c) of the National Internal Revenue Code of 1997, as amended* (*NIRC*).[6]

On January 20, 2020, respondent filed a letter, dated January 15, 2020 with the BIR,[7] requesting for a refund of the alleged erroneously paid FWT on its payment of the salaries and wages received by its qualified managerial employees for the period January 2018 to December 2018.

Respondent then filed a *Petition for Review* on February 7, 2020.[8] The case was initially raffled to this Court's Third Division.

On July 9, 2020, herein petitioner filed a *Motion for Extension of Time to File Answer to the Petition for Review*,[9] which the Court granted in the Resolution dated July 23, 2020.[10] However, on August 19, 2020, petitioner

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4 Division Docket, Vol. I, p. 404.
5 *Id.*, pp. 403-404.
6 *Id.*, pp. 403-413.
7 Division Docket, Vol. II, pp. 675 - 693.
8 Division Docket, Vol. I, pp 7-27
9 *Id.* pp. 145 to 147.
10 *Id.* p. 150.

filed a *Second Motion for Extension of Time to File Answer*,[11] which the Court in Division granted in the Resolution dated September 8, 2020.[12]

Petitioner's *Answer* was filed on September 9, 2020,[13] interposing the following special and affirmative defenses:

(a) Respondent's claim is not a case of erroneously or illegally collected tax that falls within the purview of Section 229 of the NIRC since respondent was fully aware of the situation when it made payments. Despite knowledge of the effectivity of *RA 10963*, respondent still chose to pay the alleged 15% FWT. Clearly, this is not a case of erroneous payment referred to in *Section 229 of the NIRC*, but a voluntary act on the part of respondent, with full knowledge of the situation and consequence thereof;

(b) Respondent failed to exhaust administrative remedies prior to the filing of the instant Petition for Review. Respondent filed its administrative claim with the BIR only on January 20, 2020, which is just 18 days apart from the filing of the instant petition on February 7, 2020. As a result, respondent appeared to have pursued an empty remedy and has effectively deprived petitioner of the opportunity to ascertain the validity of the claim; and

(c) Even assuming for argument's sake that respondent indeed made erroneous payments of the FWT, it is still not entitled to tax refund in the amount of ₱20,737,902.28 because of failure to substantiate its claim. Submission of complete documents in support of the administrative claim for refund is a must, otherwise there could be no compliance with regard to the filing of administrative claim for tax credit/refund which is a condition sine qua non prior to the filing of a judicial claim.

On February 22, 2021, respondent filed its Pre-Trial Brief,[14] while petitioner's Pre-Trial Brief (with Attached Special Power of Attorney for Petitioner) was submitted on March 5, 2021.[15]

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[11] *Id*, pp. 155 to 158.
[12] *Id*, p. 164.
[13] *Id*, pp. 165 to 173.
[14] *Id*, pp. 198-212.
[15] *Id*, pp. 387-397.

Pre-Trial Conference was set and held on March 9, 2021.[16] During Pre-Trial Conference, petitioner's counsel manifested that he would longer present any witness nor evidence in this case.[17]

On May 17, 2021, the parties filed their *Joint Stipulation of Facts and Issues*,[18] which was admitted and approved by the Court in Division in the Resolution dated May 28, 2021,[19] thereby deeming the termination of the Pre-Trial.

The Court in Division then issued a Pre-Trial Order dated July 9, 2021.[20]

In a Order, dated June 30, 2022,[21] the present case was transferred to the Second Division of this Court.

On November 7 2023, the Court in Division promulgated the Assailed Decision[22], ruling in favor of herein respondent and ordering petitioner to refund the amount of ₱20,737,902.28 to respondent. The dispositive portion of the same reads:

> **WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED.**
>
> Accordingly, respondent is **ORDERED TO REFUND** to petitioner the amount of **₱20,737,902.28**, representing the 15% FWT it erroneously withheld and remitted to the BIR for the year 2018.
>
> **SO ORDERED.**

A copy of the Assailed Decision was received by petitioner on November 15, 2023. Aggrieved, petitioner filed a *Motion for Reconsideration* on November 29, 2023.[23] Petitioner argued, among others, that claims for tax refunds are construed strictly against the taxpayer and in favor of the government.

[16] *Id*, pp. 177-178.
[17] *Id*, p. 474.
[18] *Id*, pp. 403-414.
[19] *Id*, pp. 457-458.
[20] *Id*, pp. 469-476.
[21] Division Docket, Vol. II, p. 749.
[22] *Supra* note 2
[23] Division Docket, Vol. II, p. 786-789.

In their *Comment/Opposition on Respondent's Motion for Reconsideration* dated January 24, 2024, respondent argued that the Motion should be denied outright as the arguments presented have all been ruled upon by the Court in Division based on existing jurisprudence, and should neither be given merit nor consideration.[24]

On February 27, 2024, the Court in Division issued the Assailed Resolution denying the Motion for Reconsideration for lack of merit, seeing no compelling reason to reverse the Assailed Decision.[25]

On March 19, 2024, petitioner filed a Motion for Extension of Time (To file Petition for Review) dated March 18, 2024,[26] in view of heavy workload consisting of almost daily hearings, preparation of pleadings, and attending preliminary investigation in different cities within its jurisdiction. Thus, it prayed for an additional period of 15 days from March 21, 2024 or until April 5, 2024, within which to file a Petition for Review.

On April 5, 2024, petitioner filed a petition for Review dated April 4, 2024,[27] pursuant to *Section 4(b), Rule 8 of the RRCTA*. There, petitioner sought for the Court *En Banc* to reverse and set aside the Assailed Decision and the Assailed Resolution and prayed for another to be issued dismissing the Petition for Review filed by respondent for lack of factual and legal basis.

Through a Resolution issued by the Court *En Banc* dated June 18, 2024,[28] the Court ordered petitioner to submit a Verification and Certification Against Forum Shopping and an Affidavit of Service, within five days from notice.

On July 16, 2024, the Court of Tax Appeals – Judicial Records Division issued a Records Verification Report stating that Petitioner failed to comply with the Court's Resolution dated June 18, 2024.[29] Hence, in another Resolution, dated September 16, 2024, the Court *En Banc* ordered petitioner to submit a Verification and Certification Against Forum Shopping and Affidavit of Service within five days from notice, with warning that failure to submit the lacking documents within the period shall be sufficient ground for the dismissal of the case in accordance with *Section 7, Rule 43, of the Rules of Court*.[30]

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[24] *Id*, pp. 793-802.
[25] *Id*, pp. 804-806.
[26] *Id*, pp. 807-809.
[27] EB Docket, pp. 5-14..
[28] *Id*, pp. 48-51.
[29] *Id*, pp. 53-54.
[30] *Id*.

On September 25, 2024, petitioner complied with the order of the Court – submitting 11 copies of the Verification and Certification, dated September 24, 2024, and 11 copies of the Affidavit of Service, dated September 25, 2024.[31]

On November 21, 2024, respondent filed a Comment/Opposition (To Petitioner's Petition for Review) dated November 20, 2024.[32] There, respondent argued that the instant Petition for Review should be denied for lack of merit given that the foregoing Decision and Resolution have exhaustively addressed the issues raised anew in the Petition for Review.

Hence, this Decision.

The Assigned Errors

Petitioner assigns the following errors to the assailed issuances of the Court in Division:[33]

(a) The Court in Division erred in granting respondent's Petition for Review by ordering the refund of the amount of **TWENTY MILLION SEVEN HUNDRED THIRTY SEVEN THOUSAND NINE HUNDRED TWO AND 28/100 (₱20,797,902.28) PESOS** representing respondent's alleged 15% FWT it erroneously withheld and remitted to the BIR for the year 2018; and

(b) The Court in Division erred in denying herein petitioner's Motion for Reconsideration.

The Arguments

Petitioner raises the following arguments:[34]

(a) There was no erroneous payment on the part of respondent that falls within the purview of Section 229 of the NIRC of 1997, as amended; and

(b) Respondent failed to exhaust administrative remedies prior to the filing of the Petition for Review, thereby depriving petitioner ample time to ascertain the validity of its claim;

[31] *Id*, pp. 60-68.
[32] *Id*, pp. 72-88.
[33] *See* Petition for Review, p 7, *id*. at 13.
[34] *Supra* note 27.

Respondent opposes the above with the following contentions:[35]

(a) The Petition for Review is a mere reiteration of issues already decided by the CTA Special Second Division in the Assailed Decision and Assailed Resolution;

(b) Petitioner's claim of lack of jurisdiction of the CTA Special Second Division is baseless;

(c) Respondent did not violate the doctrine of exhaustion of administrative remedies;

(d) The erroneous payment of the 15% FWT is clearly established;

(e) Respondent's tax refund claim is not a natural obligation under Article 1423 of the Civil Code, thus precluding a refund; and

(f) Respondent sufficiently substantiated its claim for a refund of the FWT erroneously paid.

The Ruling of the Court En Banc

The Court has jurisdiction over the instant Petition.

Under *Rule 8, Section 4(b) of the RRCTA*, this Court *En Banc* has jurisdiction over appeals from a judgment of the Court in Division pertaining to a motion for reconsideration or new trial brought before this Court, in accordance to *Rule 43 of the Rules of Court*:

> SEC. 4. *Where to appeal; mode of appeal* —
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> . . . .
>
> (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 provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. *(n)*
>
> . . . .

[35] *Supra* note 32.

The petition here assails the Court in Division's directive to petitioner to refund to respondent the sum of ₱20,797,902.28, representing the alleged 15% FWT erroneously withheld and remitted to the BIR for the taxable year 2018. Its subject matter thus falls squarely within this Court *En Banc*'s jurisdiction.

Rule 43, Section 5 of the Rules of Court mandates that an appeal be taken by filing a **verified** petition for review in the Court of Appeals, or the Court of Tax Appeals, as applied in the instant case. *Section 4* of the same Rule further provides that an appeal should be taken within 15 days from notice of the assailed decision or resolution, as the case may be.

In this particular instance, petitioner received a copy of the Assailed Resolution on March 6, 2024. Consequently, petitioner had 15 days from receipt thereof, or until March 21, 2024, to file a Petition for Review. On March 19, 2024, petitioner filed a *Motion for Extension of Time (to File Petition for Review)*, praying for an additional 15 days from March 21, 2024 or until April 5, 2024 to file the Petition for Review. Accordingly, the same was filed on April 5, 2024 without the verification and certification against forum shopping mandated under the Rules.

This Court reiterates that pursuant to the procedural requisites in the Rules of Court, the inclusion of a properly executed verification constitutes an essential prerequisite for the validity of any pleading, petition, or motion submitted to a court. This verification serves to uphold the sanctity of judicial proceedings by ensuring the authenticity of the assertions made therein.[36] In harmony with existing jurisprudence and *Rule 7, Section 4 of the Rules of Court*, the omission of a valid verification renders a pleading fundamentally defective, akin to an unsigned submission, which shall be deemed as a mere scrap of paper without any force and effect to invoke the Court's jurisdiction or merit judicial consideration.[37]

On the other hand, the Supreme Court cautioned in the case of *Gloria S. Dy v. Mandy Commodities Co., Inc.*, that the primary vice sought to be circumvented by the prohibition on forum shopping is the issuance of divergent and contradictory judgments by two competent tribunals. Unprincipled litigants, leveraging the existence of multiple judicial venues, may persistently pursue their claims across various fora until a favorable adjudication is obtained.[38] It is well-established that when forum shopping is found, the penalty is the immediate dismissal of both the case before this Court and any related case in a lower court. This double dismissal punishes those who disrupt the proper administration of justice with such tactics.[39]

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[36] *Torres v. Republic of the Philippines*, G.R. No. 247490, March 2, 2022.
[37] *Kilosbayan Foundation v. Janolo, Jr.*, G.R. No. 180543, July 27, 2010.
[38] G.R. No. 171842, July 22, 2009.
[39] *Fontana Development Corp. v. Sascha Vukasinovic*, G.R. No. 222424, September 21, 2016.

In a number of cases, the Court has previously relaxed the strict application of the Rules to favor the ends of justice. The matter on the relaxation of the Rules of Court has been tackled previously, as discussed in the case of *Nellie VDA. de Formoso v. Philippine National Bank*[40] to wit:

> For the guidance of the bench and bar, the Court restates in capsule form the jurisprudential pronouncements already reflected above respecting non-compliance with the requirements on, or submission of defective, verification and certification against forum shopping:
>
> 1. A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance with the requirement on or submission of defective certification against forum shopping.
>
> 2. As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The Court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.
>
> 3. Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.
>
> 4. As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."

Hence, considering that the instant petition was filed on exactly April 5, 2024, and compliance with the submission of the Verification and Certification Against Forum Shopping and Affidavit of Service was subsequently made, this Court *En Banc* properly assumed jurisdiction over this case.

The above liberality, however, cannot save the Petition from its lack of merit, as We shall discuss below.

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[40] G.R. No. 154704, June 1, 2011.

Respondent did not violate the doctrine of exhaustion of administrative remedies

Petitioner contends that respondent failed to demonstrate a bona fide intention to comply with the statutory prerequisite of exhausting available administrative remedies prior to initiating judicial proceedings. The records indicate that respondent lodged its administrative claim with the CIR on January 20, 2020, and subsequently filed a Petition for Review with the Court in Division on February 7, 2020. Clearly, a mere 18 days elapsed between the submission of the administrative claim and the filing of the judicial petition. In view thereof, petitioner asserts that it was deprived of a reasonable opportunity to evaluate the legitimacy of respondent's claim for a refund.

We cannot accept petitioner's argument.

In the case of *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*,[41] the Supreme Court has definitively resolved this matter. The Honorable Court therein pronounced that a judicial claim is deemed validly instituted provided that an administrative claim has been duly filed prior thereto, regardless of the temporal interval separating the two filings. Consequently, the Court has established that even where the submission of an administrative claim and the initiation of a judicial claim occur in near contemporaneity, such proximate filings must be permitted under the law. This ruling underscores the principle that the validity of a judicial claim hinges solely on the prior submission of an administrative claim, without regard to the brevity of the period elapsed between the respective filings, thereby ensuring that procedural technicalities do not unduly impede access to judicial recourse.

In view of the undisputed fact that respondent duly submitted an administrative claim prior to seeking judicial redress from the Court, it is deemed to have fully satisfied the requirement of exhausting administrative remedies as mandated by law. The circumstance that respondent initiated its judicial claim a mere 18 days after the filing of its administrative claim is of no legal consequence, particularly when viewed in the context of prevailing jurisprudential standards.

While we empathize with petitioner's circumstances, the provisions of the *NIRC* regarding tax refunds are not ideal as they stand. As noted in the case of *Carrier* along with its related opinions, the law sets a two-year deadline for taxpayers to file a judicial claim, but it does not give the CIR a timeframe within which to act on administrative claims. As a result, two problems stem from the foregoing: *First*, the CIR can take an unreasonable

[41] G.R. No. 226592, July 27, 2021.

amount of time to decide on a claim to the detriment of taxpayers; and *second*, taxpayers are allowed to file a judicial claim immediately after submitting an administrative one, taking away the opportunity for CIR to ascertain such claim.

By affording the petitioner only 18 days to examine its administrative claim, respondent has, in effect, circumvented compliance with the prerequisite of presenting claims for refund before the CIR. Even so, such conduct falls within the bounds of existing law and jurisprudence, as previously resolved. While this Court cannot disregard the matter, it is, as lamented in *Carrier*, a concern that is properly remedied not through judicial decree but through enactment of appropriate legislative measures.

As such, the Court is constrained to deem respondent to have technically exhausted all administrative remedies available before it.

Erroneous payment of 15% FWT was clearly established by respondent

In believing that there is erroneous payment only when a taxpayer pays under a mistake of fact, petitioner argues that the Court in Division should not have granted respondent's prayer for a refund of the alleged erroneously paid 15% FWT. It argues, among others, that respondent's claim is not a case of erroneously or illegally collected taxes falling within the purview of *Section 229 of the NIRC*, given that: (a) petitioner did not force or issue anything which could be considered as a demand that compels respondent to pay the FWT; and (b) despite knowledge of the effectivity of *Republic Act* (RA) *No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion Law"* (*TRAIN Law*), respondent willingly and voluntarily paid the 15% FWT.

The argument misses the point entirely.

First of all, the fact that petitioner did not force or issue anything which could be considered as a demand compelling petitioner to pay the 15% FWT bears no weight whatsoever.

As held in the case of *CIR v. Fitness By Design, Inc.*,[42] the assessment procedure is initiated upon the submission of the tax return and the corresponding remittance of tax by the taxpayer. The initial assessment, as reflected in the tax return, constitutes a self-assessment made by the taxpayer. The tax liability is primarily computed and voluntarily discharged by the taxpayer without necessity of any formal demand from the government. In

[42] G.R. No. 215957, November 9, 2016.

instances where the tax obligations have been duly satisfied, the BIR may, at its discretion, forgo conducting its own assessment. Alternatively, the CIR or their duly authorized representative is vested with the authority to conduct an examination of any taxpayer for the purpose of determining the correct tax liability subsequent to the filing of a tax return.

Accordingly, it is established that no formal demand or notice from the CIR was a prerequisite to compel the respondent to remit the taxes which they, in good faith, believed to be due and owing. The absence of such a demand underscores that the payment was voluntarily made by respondent, thereby signifying that the same was paid erroneously and without any coercion or directive from the BIR.

Next, the Special Second Division correctly ruled that there was apparent confusion caused by the exercise of line-item veto by former President Duterte.

Prior to the enactment of the *TRAIN Law*, *Section 25(C) of the NIRC* provided that Filipino citizens occupying positions identical or substantially similar to those held by foreign nationals employed by Regional or Area Headquarters and Regional Operating Headquarters of multinational corporations were subject to a preferential tax rate of 15% on their gross income.

While *Section 25(C) of the NIRC* was retained under the *TRAIN Law*, an additional provision was introduced to extend such preferential tax incentives to Regional Headquarters (RHQs), ROHQs, Offshore Banking Units (OBUs), and petroleum service contractors and subcontractors registered with the SEC prior to January 1, 2018, but excluded those registering thereafter. This provision was subsequently vetoed by former President Duterte on grounds of violating the Equal Protection Clause of the 1987 Constitution.

Following the veto, the Secretary of Finance issued Revenue Regulations No. 8-2018, interpreting the veto to mean that the 15% preferential tax rate would no longer apply to employees of RHQs, ROHQs, OBUs, and petroleum service contractors and subcontractors. This was without prejudice to preferential rates under existing international tax treaties, thereby subjecting such employees to the regular tax rates mandated by law.

With due regard to the above, the Court *En Banc* agrees with the Court in Division in ruling that:

> Considering the confusion brought about by the amendment introduced to *Section 25 of the NIRC of 1997*, as amended by *RA No. 10963*, and the subsequent veto of the President to the proviso of *Section 6(F) of RA No. 100963*, petitioner should not be faulted for having paid both the 15% FWT and withholding taxes on wages "to avoid being penalized", as the question of whether the 15% FWT or the regular income tax is applicable may be considered a doubtful question of law.

The veto of *Section 6(F) of Republic Act No. 10963* effectively terminated the 15% preferential tax rate on the gross income of employees of RHQs, ROHQs, OBUs, and petroleum service contractors and subcontractors, effective January 1, 2018. Thereafter, such employees' compensation and related emoluments are subject to the regular income tax rates. Accordingly, the respondent's payment of the 15% final withholding tax lacks statutory authority.

In light of the discussion above and the attendant circumstances surrounding the respondent's remittance of the 15% FWT, it is evident that respondent, acting in good faith, remitted both the 15% FWT and the withholding tax on wages due to the ambiguity engendered by the enactment of *Republic Act No. 10963* and the subsequent exercise of the President's line-item veto authority. This clearly demonstrates that respondent's payment of the 15% FWT was made erroneously.

All told, We cannot grant the instant Petition.

ACCORDINGLY, petitioner's Petition for Review, filed on April 5, 2024, is hereby **DENIED** for lack of merit. The Decision, dated November 7, 2023, and the Resolution, dated February 27, 2024, both rendered by the Court in Division in CTA Case No. 10256, are **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution*, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice