REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB No. 1695
(CTA Case Nos. 8919 & 8920)

Present:

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

- *versus* –

SPOUSES EDUARDO X. GENATO and LYDIA M. GENATO, CONDOMINIUM PUSHERS, INC. and LANDMART PHILIPPINES, INC.
Respondents.

Promulgated:

JAN 12 2018 3:28 p.m.

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DECISION

CASTAÑEDA, JR., J.:

Before the Court *En Banc* is a Petition for Review[1] filed under Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA). It seeks the reversal of the Decision dated March 30, 2017,[2] (assailed Decision) as well as the Resolution dated July 17, 2017[3] (assailed

[1] Court *En Banc's* Docket, pp. 1-8.
[2] *Id.*, pp. 15-34.
[3] *Id.*, pp. 37-39.

Resolution) of the First Division (Court in Division)[4] of this Court in the consolidated cases docketed as CTA Case Nos. 8919 & 8920.

The respective dispositive portions of the assailed Decision and Resolution are quoted hereunder:

Assailed Decision:

> "**WHEREFORE**, in light of the foregoing considerations, the instant Petitions for Review are **GRANTED**. Accordingly, respondent is **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of Spouses Eduardo X. Genato and Lydia M. Genato in the aggregate amount of **₱3,316,146.00**, representing the capital gains taxes paid on November 9, 2012 and on December 7, 2012.
>
> **SO ORDERED.**"

Assailed Resolution:

> "**WHEREFORE**, in light of the foregoing considerations, respondent's *Motion for Reconsideration* is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

THE FACTS

As found by the Court in Division in its Decision dated March 30, 2017, the facts of the present case are as follows:[5]

> "Petitioners, Spouses Eduardo X. Genato and Lydia M. Genato (hereinafter referred to as 'Spouses Genato'), are registered taxpayers with Taxpayer Identification Number (TIN) 106-173-019-000 and TIN 106-974-204-000, respectively, and with residence address (sic) at 230 Amapola Street, Palm Village, Makati City. They are the owners of (a) real properties subject of Deeds of Conveyance in favor of CPI

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[4] Composed of Presiding Justice Roman G. Del Rosario as Chairperson, Associate Justice Erlinda P. Uy and Associate Justice Cielito N. Mindaro-Grulla as members.

[5] Court *En Banc's* Docket, pp. 16-25 (Citations omitted).

and LPI on which capital gains taxes were paid, and (b) majority of the capital stock of CPI and LPI.

Petitioners CPI and LPI are two (2) distinct domestic corporations duly organized and existing under Philippine laws, both with principal addresses at 230 Amapola Street, Palm Village, Makati City; and whose stockholders are the Spouses Eduardo X. Genato and Lydia M. Genato, Paul M. Genato, Alberto M. Genato, and Margarita L. Genato.

Petitioners CPI and LPI are authorized by the Securities and Exchange Commission to transact business in the Philippines under SEC Registration Nos. 57481 and 61730, respectively. Both CPI and LPI are registered with the Bureau of Internal Revenue (BIR), Revenue District Office (RDO) No. 49 with TIN 000-157-841-000 and TIN 000-163-562-000, respectively.

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue vested under appropriate laws with the authority to carry out the functions, duties, and responsibilities of his office, including, *inter alia*, the authority to compromise, abate and refund or credit taxes under Section 204 of the National Internal Revenue Code (NIRC) of 1997, and other tax laws, rules and regulations.

On August 17, 2011 and August 22, 2011, the SEC approved the separate applications of CPI and LPI for the increase in their respective capital stock from ₱5,000,000.00 to ₱25,000,000.00.

On November 8, 2012, Spouses Genato executed a Deed of Conveyance and a Supplemental Deed of Conveyance in favor of CPI, transferring the following real properties:

(1) Transfer Certificate of Title (TCT) No. 006-2010000229 located at 255 Amapola Street, Palm Village, Makati City;
(2) TCT No. 112800 located at 468 Adalla Street, Palm Village, Makati City; and
(3) TCT No. 112914 located at 470 Adalla Street, Palm Village, Makati City.

The foregoing real properties were conveyed in exchange for 199,925 shares of stock of CPI with an aggregate par value of ₱19,992,500 to be issued to Spouses Genato. The conveyance made by Spouses Genato was intended as partial payment of

₱17,000,000 of their subscription to the increase in capital stock of CPI which was approved by the SEC.

On the same date, Spouses Genato executed a similar Deed of Conveyance and Supplemental Deed of Conveyance in favor of LPI, transferring the following real properties:

(1) TCT No. 157117 located at 231 Amapola Street, Palm Village, Makati City; and
(2) TCT No. 157116 located at 233 Amapola Street, Palm Village, Makati City.

The foregoing real properties were also conveyed in exchange for 199,948 shares of LPI with an aggregate par value of ₱19,994,800 to be issued to Spouses Genato. The conveyance made by Spouses Genato was intended as partial payment of ₱12,000,000 of their subscription to the increase in capital stock of LPI which was approved by the SEC.

On November 9, 2012, Spouses Genato filed their Capital Gains Tax Return and paid the amount of ₱1,020,000.00 by reason of their conveyance of real properties in favor of CPI. On December 7, 2012, petitioner Eduardo X. Genato paid deficiency capital gains tax in the amount of ₱969,062.00.

Similarly, on November 9, 2012, Spouses Genato filed their Capital Gains Tax Return and paid the amount of ₱720,000.00 by reason of their conveyance of real properties in favor of LPI. On December 7, 2012, petitioner Eduardo X. Genato likewise paid deficiency capital gains tax in the amount of ₱607,084.00.

Spouses Genato executed Affidavits of Rescission dated July 15, 2013, rescinding both the Deeds of Conveyance and the Supplemental Deeds of Conveyance made by Spouses Genato in favor of CPI and LPI. They notified the BIR (RDO 49) of the rescission of the conveyance of the real properties through Notices of Rescission dated September 27, 2013.

On November 12, 2013, CPI and LPI filed with the SEC, Petitions for Cancellation of the increase in capital stock. The SEC granted the cancellation in the Orders both dated April 4, 2014. Consequently, the authorized capital stocks of CPI and LPI were reverted to the original amount of ₱5,000,000.00. *Jc*

On November 3, 2014, the following written claims for the issuance of TCC in the total amount of ₱3,316,146.00 were filed with the BIR, to wit:

(1) On behalf of Spouses Genato and CPI, in the amounts of ₱1,020,000.00 and ₱969,062.00 representing the payments of capital gains tax on November 9, 2012 and December 7, 2012, respectively; and

(2) On behalf of Spouses Genato and LPI, in the amounts of ₱720,000.00 and ₱607,084.00 representing the payments of capital gains tax on November 9, 2012 and December 7, 2012, respectively.

Due to respondent's inaction and considering that the two-year period to file a judicial claim for refund or tax credit is about to expire, petitioners separately filed the present consolidated *Petitions for Review* on November 6, 2014, namely CTA Case Nos. 8919 and 8920.

Respondent separately filed, his *Answers* to the said *Petitions for Review* through registered mail on December 24, 2014, both of which were received by this Court on January 7, 2015. The said *Answers* interpose the same Special and Affirmative Defenses, to wit:

> '1. Article 1191 of the New Civil Code provides as follows:
>
> > '**Art. 1191.** The power to rescind obligations is implied **in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him**.'
>
> 2. In the case of petitioners, none of the parties cannot comply with their respective obligations. As a matter of fact, petitioners Condominium Pushers, Inc. (in CTA Case No. 8919) and petitioners Landmart Philippines, Inc. (in CTA Case No. 8920) complied with their obligation and delivered the shares of stocks subscribed by Spouses Genato. On the other hand, Spouses Eduardo X. Genato and Lydia M. Genato as payment for the shares subscribed delivered the real properties subject

Jc

of the Deed of Conveyance of Real Property and Supplemental Deed of Conveyance. Thus, both parties can comply and already complied with their respective obligations. Hence, petitioners cannot validly resort to rescission under Article 1191 of the New Civil Code.

3. Moreover, Article 1381 of the New Civil Code provides as follows:

> '**Art. 1381.** The following contracts are rescissible:
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> 1. Those which are entered into by guardians whenever the wards whom they represent suffer lesion by more than one-fourth of the value of the things which are the object thereof;
>
> 2. Those agreed upon in representation of absentees, if the latter suffer the lesion stated in the preceding number;
>
> 3. Those undertaken in fraud of creditors when the latter cannot in any other manner collect the claims due them;
>
> 4. Those which refer to things under litigation if they have been entered into by the defendant without the knowledge and approval of the litigants or of competent judicial authority;
>
> 5. All other contracts specially declared by law to be subject to rescission.'

4. In the case at bench, it is quite unequivocal that none of the above-mentioned grounds exists.

5. It is worthy to note that petitioners resorted to rescission only upon notification to them

imposing donor's tax on the excess of the book value of the shares of stock over the value of the real properties transferred. The execution of the Affidavit of Rescission is a mere afterthought to escape and avoid payment of donor's tax. In relation to Article 1381 of the New Civil Code, this ground relied upon by petitioner in rescinding the contract does not fall among those specified therein.

6. Stated differently, the rescission of contracts resorted to by petitioner was made with the intention of avoiding the payment of donor's tax. This was made in bad faith which [should] not be given a premium for their actions.

7. Section 6 of the Tax Code provides:

> '***SEC. 6. Power of the Commissioner to make Assessment and Prescribe Additional Requirements for Tax Administration and Enforcement. -***
>
> (A) Examination of Returns and Determination of Tax Due. – After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax. Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.
>
> The tax or any deficiency tax so assessed shall be paid upon notice and demand from the Commissioner or from his duly authorized representative.
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> **Any return, statement or declaration filed in any office authorized to receive the same shall**

> **not be withdrawn**: Provided, That within three (3) years from the date of such filing[,] the same may be modified, changed, or amended: Provided, further, That no notice for audit or investigation of such return, statement or declaration has, in the meantime, been actually served upon the taxpayer.'

8. In the present case, from the petitioners' filing of the appropriate Capital Gains Tax Return together with the supporting documents of the subject transaction, the BIR discovered that the book value of the subject shares of stocks is much higher than the value of the real properties involved. Thus, pursuant to Section 100 of the NIRC of the 1997, (sic) as amended, the BIR assessed the petitioners for the corresponding donor's tax.

9. Upon receipt by the petitioners of the notice of the proposed deficiency donor's tax assessment, petitioners mutually rescinded the contracts. The act of petitioners in rescinding the contract is in effect withdrawing the capital gains tax returns filed with the BIR. However, it must be noted that the act of withdrawing any returns filed with the BIR cannot validly be made when there was already a notice for audit or assessment as provided for under Section 6 of the NIRC.

10. Hence, the Capital Gains Tax Returns filed by petitioner: on November 9, 2012 in the amount of One Million Twenty Thousand Pesos (Php1,020,000.00) and on December 7, 2012 in the amount of Nine Hundred Sixty[-]Nine Thousand and Sixty[-]Two Pesos (Php969,062.00) in CTA Case No. 8919; and on November 9, 2012 in the amount of Seven Hundred Twenty Thousand Pesos (Php720,000.00) and on December 7, 2012 in the amount of Six Hundred Seven Thousand and Eighty[-]Four Pesos (Php607,084.00) in CTA Case No. 8920, cannot be considered as

erroneously or illegally collected tax because at the time the same were paid, the contract is very much legal and valid.

11. Assessment[s] are *prima facie* presumed correct and made in good faith. The taxpayer has the duty of proving otherwise. In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed. *(Aban, Law of Basic Taxation in the Philippines, 1st Edition, p. 109)*;

12. In an action for tax credit or refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge the said burden is fatal to the claim *(Emmanuel & Zenaida Aguilar v. Commissioner, CA-GR No. Sp. 16432, March 30, 1990 cited in Aban, Law of Basic Taxation in the Philippines, 1st Edition, p. 206);*

13. Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and as such, they are looked upon with disfavor. *(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 121).*

14. Finally, Petitioner should be reminded that taxes are important because it is the lifeblood of the government and so should be calculated (sic) without unnecessary hindrance *(Commissioner vs. Algue, Inc. L-28896, 17 February 1988)*. Taxes are enforced proportional contribution from persons and property levied by the state, thus, no one is considered entitled to recover that which he must give up to another – *Non videtur quisquam id capere quod ei necesse est alii restitutere.*'

On February 11, 2015, petitioners filed a *Reply (Re: Answer dated December 23, 2014)* in CTA Case No. 8919; and *Reply (Re: Answer dated December 22, 2014)* in CTA Case No. 8920, similarly alleging, among others, that both the Supreme Court and this Court expressly recognize the right of contracting parties to mutually rescind an agreement. Respondent allegedly fails to appreciate that the remedy of 'rescission' is not confined to the rescissible contracts enumerated under Articles 1191 and 1381 of the Civil Code as 'rescission' is used in four (4) distinct contexts in civil law, namely[:] (i) the right of rescission under the law on obligations as granted in Article 1191 of the Civil Code; (ii) 'rescissible contracts' enumerated under Article 1381 of the Civil Code; (iii) rescission under Article 1659 of the Civil Code; and (iv) <u>rescission by mutual agreement</u>, expressly recognized in jurisprudence. Relative thereto, petitioners invoke the doctrine laid down in *Pryce Corporation (Formerly Pryce Properties Corporation v. Philippine Amusement and Gaming Corporation)* wherein it was held that parties have the right to effect rescission of a contract by mutual agreement. Thus, petitioners pray to this Court to grant their claims in the instant case.

The Court set CTA Case No. 8919 and CTA Case No. 8920 for Pre-Trial Conference on March 26, 2015 and on February 19, 2015, respectively. However, the Pre-Trial Conference for CTA Case No. 8920 originally scheduled on February 19, 2015 was reset to March 19, 2015.

On February 13, 2015, petitioners filed a *Motion for Consolidation (With Motion [to] Defer Pre-Trial Conference)*, praying that CTA Case No. 8919 be consolidated with CTA Case No. 8920 and that the scheduled Pre-Trial Conference be deferred pending the resolution of the *Motion for Consolidation*. After the filing of respondent's *Comment (to the Motion for Consolidation dated February 13, 2015)* through registered mail on February 25, 2015 and received by the Court on March 5, 2015, the Court granted petitioner's *Motion for Consolidation* in the Resolutions dated March 10, 2015 and May 5, 2015.

Hence, CTA Case No. 8920 was consolidated with CTA Case No. 8919 and the Pre-Trial Conference was reset to July 2, 2015. Respondent's Pre-Trial Brief and petitioner's Pre-Trial Brief were both filed on June 26, 2015. By agreement of the parties, they filed their *Joint Stipulation of Facts* and

> *Supplemental Joint Stipulation of Facts* on July 16, 2015 and on August 20, 2015, respectively. Both were approved by the Court in the Resolution dated September 15, 2015. The Court later issued the Pre-Trial Order on October 13, 2015.
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> During trial, petitioners presented their lone witness, Lydia M. Genato. On the other hand, respondent's counsel, Atty. Catherine Herrera, manifested during the hearing held on March 1, 2016 for the presentation of respondent's evidence, that she will not be presenting any evidence and would be submitting the case for decision as there was no investigation report submitted. Thus, both parties were given thirty (30) days within which to file their respective memorandum.
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> Petitioners filed their *Memorandum* on March 31, 2016; while respondent filed a *Manifestation (In Lieu of Submission of Memorandum)* through registered mail on March 31, 2016 and received by the Court on April 13, 2016, stating that respondent would be adopting all his pleadings filed in relation to this case as his *Memorandum*. Thereafter, the instant case was submitted for decision in the Resolution dated April 19, 2016."

On March 30, 2017, the Court in Division rendered the assailed Decision granting respondents' Petitions for Review. The Court in Division ordered petitioner to issue tax credit certificate in favor of respondent Spouses Genato in the aggregate amount of Three Million Three Hundred Sixteen Thousand One Hundred Forty-Six Pesos (₱3,316,146.00), representing the capital gains taxes paid on November 9, 2012 and on December 7, 2012.

Aggrieved, petitioner filed a Motion for Reconsideration on April 11, 2017 which the Court in Division denied in the assailed Resolution.

On August 2, 2017, petitioner filed the present Petition for Review via registered mail.

On September 18, 2017, respondents filed their Comment/Opposition (Re: Petition for Review dated July 28, 2017).

In a Resolution dated October 3, 2017, the Court *En Banc* gave due course to the present Petition for Review. In the same Resolution, the present case was submitted for decision.

THE ISSUES

In the present Petition for Review, petitioner raised the following issues:[6]

> "Whether the Honorable First Division of the CTA erred in granting Respondent's Petition for Review and ordering the refund of the amount of ₱4,316,146.00[7] representing the capital gains taxes paid on November 9, 2012 and on December 7, 2012.
>
> Whether the Honorable First Division of the CTA erred in denying herein Petitioner's Motion for Reconsideration."

THE COURT *EN BANC*'S RULING

The Petition for Review lacks merit.

After careful evaluation of the facts, issues, and arguments presented by the parties, the Court *En Banc* finds that the arguments herein raised by petitioner are substantially identical to or mere reiterations of the arguments or matters which have already been sufficiently considered, discussed, and passed upon by the Court in Division in the assailed Decision and Resolution.

In the present Petition, petitioner contends that the execution of the Affidavits of Rescission of the Deed of Conveyance and of the Supplemental Deed of Conveyance by and between Spouses Genato and the two domestic corporations, CPI and LPI was tainted with bad faith.[8] Petitioner alleges that when respondents learned about petitioner's imposition of donor's tax on the excess book value of the shares of stock over the value of the real properties transferred, the former resorted to the execution of the Affidavits of Rescission, as evidenced by the Administrative Claim for Credit dated November 3, 2014 filed by petitioners on the same date.[9] Moreover, petitioner posits that the rescission in the present case was executed without stating any meritorious reason or ground for their action as the Affidavits of Rescission of Deed of Conveyance and the Supplemental Deed of Conveyance did not cite any.[10]

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[6] *Id.*, p. 3.
[7] This should be **₱3,316,146.00.**
[8] Court *En Banc*'s Docket, pp. 3-4.
[9] *Id.*
[10] *Id.*

Petitioner's contention is untenable.

Basic is the rule that bad faith is never presumed.[11] Bad faith does not simply connote bad judgment or negligence; it imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud.[12] Like fraud, bad faith is an allegation of fact that demands clear and convincing proof.[13] It is a serious accusation that can be so conveniently and casually invoked, and thus, never presumed.[14] In fact, the Supreme Court had stated in one case[15] that allegation of bad faith amounts to a mere slogan or mudslinging unless convincingly substantiated by whoever is alleging it.

In the present case, the Court in Division correctly brushed aside petitioner's allegation that the execution of the Affidavits of Rescission was attended with bad faith given that petitioner failed to present any evidence, much less a clear and convincing one, to substantiate such allegation. This Court cannot simply decide on the basis of speculations and conjectures.

Neither can the Court *En Banc* give credence to petitioner's claim that the rescission has the effect of withdrawing the capital gains tax returns filed before the BIR and thus, prohibited under Section 6 of the National Internal Revenue Code of 1997, as amended.[16] As the Court in Division correctly observed, there is no indication in the present case that Spouses Genato are requesting or praying for this Court to order the withdrawal of the capital gains tax returns filed before the BIR regarding the subject transactions.[17] The Court in Division likewise correctly held that the filing of the present claim for refund does not amount to a request for the withdrawal of the said returns considering that a claim for refund of taxes paid and a request for the withdrawal of tax returns are two different and distinct matters.[18]

The Court *En Banc* also does not find any merit in petitioner's argument that in rescission, proof of return of the object and consideration to their rightful owners is necessary to show that the parties have returned to

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[11] *Pioneer Insurance Surety Corporation v. Morning Star Travel & Tours, Inc.*, G.R. No. 198436, July 8, 2015, 762 SCRA 301; *Montinola v. Philippine Airlines*, G.R. No. 198656, September 8, 2014, 734 SCRA 458; *Carag v. National Labor Relations Commission*, G.R. No. 147590, April 2, 2007, 520 SCRA 49; *Fernando v. Sto. Tomas*, G.R. No. 112309, July 28, 1994, 234 SCRA 552.
[12] *Morris v. Court of Appeals*, G.R. No. 127957, February 21, 2001, 352 SCRA 437; *Magat, Jr. v. Court of Appeals*, G.R. No. 124221, August 4, 2000, 337 SCRA 298; *Tan v. Northwest Airlines, Inc.*, G.R. No. 135802, March 3, 2000, 327 SCRA 268.
[13] *Cathay Pacific Airways, Ltd. v. Spouses Vasquez*, G.R. No. 150843, March 14, 2003, 399 SCRA 220.
[14] *Id.*
[15] *Id.*
[16] Court *En Banc*'s Docket, pp. 4-5.
[17] *Id.*, p. 30.
[18] *Id.*

their status *quo ante.*[19] That without such proof, there is no rescission to speak of.

It must be noted that petitioner had raised such issue only in his Motion for Reconsideration before the Court in Division. Notably, the said issue was never raised in petitioner's Answer or Pre-trial Brief, or any other pleadings filed before the Court in Division. Neither did petitioner present any evidence to prove such allegation. It is a settled rule that points of law, theories, issues, and arguments not adequately brought to the attention of the lower court need not be considered by the reviewing court as they cannot be raised for the first time on appeal because to allow the same would be offensive to the basic rules of fair play, justice, and due process.[20] If petitioner sincerely believes such an argument, he should have raised the same at the earliest opportunity, *i.e.*, when he filed his Answer before the Court in Division, and not later on when the Court in Division had already ruled against him.

At any rate, the Court *En Banc* agrees with the Court in Division in declaring the foregoing argument as having no support in law.

In view of the foregoing, the Court *En Banc* finds no substantial matter much less compelling reason to disturb the findings of the Court in Division in the assailed Decision and Resolution.

WHEREFORE, the present Petition for Review is **DENIED** for lack of merit.

SO ORDERED.

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

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[19] *Id.*, p. 5.
[20] *Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue*, (Resolution) G.R. No. 168498, April 24, 2007, 522 SCRA 144; *Hubert Nuñez vs. SLTEAS Phoenix Solutions, Inc.*, G.R. No. 180542, April 12, 2010, 618 SCRA 134; *American Home Insurance Co. of New York vs. F. F. Cruz & Co., Inc.*, G.R. No. 174926, August 10, 2011, 655 SCRA 248; *Padilla Mercado et. al. vs. Sps. Espina*, G.R. No. 173987, February 25, 2013, 691 SCRA 545; *Ma. Consolacion M. Nahas vs. Juanita L. Olarte*, G.R. No. 169247, June 2, 2014, 724 SCRA 224; *Luzviminda Apran Canlas vs. Republic of the Philippines*, G.R. No. 200894, November 10, 2014, 739 SCRA 430; *Cheryll Santos Leus vs. St. Scholastica's College Westgrove and/or Sr. Edna Quiambao, OSB*, G.R. No. 187226, January 28, 2015, 748 SCRA 413.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice