REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

ORZAT DEVELOPMENT CORPORATION, *Petitioner,*	**C.T.A. E.B. NO. 191** **(RTC SCA Case No. MC05-561-A)**
	Present:
-versus-	ACOSTA, Presiding Justice, CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, and PALANCA-ENRIQUEZ, JJ.
CITY OF MANDALUYONG and THE CITY TREASURER, *Respondents.*	**Promulgated:** SEP 22 2006

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DECISION

PALANCA-ENRIQUEZ, J.:

THE CASE

This is an appeal by Orzat Development Corporation (hereafter "petitioner") from the Decision, dated September 25, 2005, rendered by the Regional Trial Court of Mandaluyong City, Branch 211, in SCA Case No. MC05-561-A, the dispositive portion of which reads as follows:

> "WHEREFORE, the challenged decision dated January 19, 2005, issued by the Metropolitan Trial Court, Branch LIX (59), Mandaluyong City in Civil Case No. 18599 entitled '**ORZAT DEVELOPMENT CORPORATION,** Plaintiff, versus **MANDALUYONG CITY and THE CITY TREASURER**, Defendants,' is hereby AFFIRMED.
>
> Let the complete record of the case be remanded, after the lapse of fifteen (15) days upon receipt hereof of all concerned, to the court of origin for appropriate action.
>
> SO ORDERED."

and the Resolution dated April 5, 2006, denying petitioner's Motion For Reconsideration, the dispositive portion of which reads as follows:

> "WHEREFORE, plaintiff-appellant's motion for reconsideration is hereby DENIED.
>
> SO ORDERED."

THE FACTS

The facts of the case, as culled from the records, are as follows:

Petitioner is the registered owner of 2 parcels of commercial land in Mandaluyong City, designated as Lot No. 1-C and Lot No. 1-D covered by TCT Nos. 40611 and 40612, respectively.

Prior to 1994, the assessed values of said properties were stated as follows:

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Lot No. 1-C was assessed at P4,035,000.00; and
Lot No. 1-D was assessed at P4,500,000.00.

Beginning 1994, the assessed values of said real properties were increased by the City Assessor of Mandaluyong City following a Schedule of Market Values prepared by the assessors of the cities and municipalities comprising the Second District, of which Mandaluyong City is a member.

From 1994 up to 2000, petitioner claims overpayment of P295,115.56.

On June 11, 2002, petitioner filed a complaint for Collection of Sum of Money with the Metropolitan Trial Court of Mandaluyong City, Branch 59, praying for a refund or tax credit of overpaid real property taxes in the amount of P295,115.56. Petitioner relied on the decision of the Supreme Court in *Ty vs. Trampe (250 SCRA 500)* and the decision of the Court of Appeals, dated December 22, 1997, in *Suguitan vs. Marcelino, CA-G.R. SP No. 44155.*

In their answer, respondents averred that the real estate tax assessment by the City of Mandaluyong is based on *Ordinance Nos. 119 and 125, Series of 1993 and Ordinance No. 135, Series of 1994.* On the

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basis of the aforecited Ordinances, the City of Mandaluyong through the Treasurer's Office assessed and collected payments of real estate taxes from real property owners including herein petitioner; and that in the case of *Figuerres vs. Court of Tax Appeals (305 SCRA 206)*, the Supreme Court affirmed the validity of *Ordinance Nos. 119, 125 and 135* of the City of Mandaluyong.

On January 19, 2005, the Metropolitan Trial Court of Mandaluyong City, Br. 59, rendered a Joint Decision in Civil Case Nos. 18598 and 18599 dismissing the cases, the dispositive portion of which reads as follows:

> "WHEREFORE, for failure of the plaintiffs to avail of any of the remedies provided for under Sections 187, 226 and 252 of R.A. 7160, the instant cases are hereby DISMISSED. With cost.
>
> SO ORDERED."

On February 16, 2005, petitioner filed a Motion For Reconsideration, which was denied for lack of merit on April 6, 2005.

Not satisfied, petitioner appealed to the RTC of Mandaluyong City, Branch 21, docketed as SCA Case No. MC05-561-A.

On September 25, 2005, the RTC of Mandaluyong rendered decision affirming the decision of the Metropolitan Trial Court of Mandaluyong City.

On November 2, 2005, petitioner filed its Motion For Reconsideration, to which an Opposition was filed by respondents.

On April 5, 2006, the RTC of Mandaluyong City denied the Motion For Reconsideration for lack of merit.

Hence, the present appeal filed by petitioner assigning the following:

ISSUES

I

WHETHER OR NOT THE REGIONAL TRIAL COURT (NATIONAL CAPITAL JUDICIAL REGION, MANDALUYONG CITY, BRANCH 211) WAS CORRECT IN HOLDING THAT PETITIONER'S COMPLAINT IN THE METROPOLITAN TRIAL COURT (MANDALUYONG CITY, BRANCH 59) WAS FILED BEYOND THE PRESCRIPTIVE PERIOD OF 2 YEARS.

II

WHETHER OR NOT THE SAID REGIONAL TRIAL COURT WAS CORRECT IN HOLDING THAT THE SCHEDULE OF MARKET VALUES FOR REAL PROPERTIES IN THE CITY OF MANDALUYONG

> [THAT WAS ADOPTED PURSUANT TO ORDINANCES NOS. 119 AND 125 (SERIES OF 1993), AND 135 (SERIES OF 1994) OF THE CITY OF MANDALUYONG] WAS VALID.

Decisive Issue

The decisive issue to be resolved is whether the imposition of real estate taxes is valid, hence, petitioner is not entitled to a tax refund/tax credit.

Brief Background

1) *Ty vs. Trampe, 250 SCRA 517*

This present case stemmed from the decision in *Ty vs. Trampe, 250 SCRA 517.* The Supreme Court nullified the Schedule of Market Values for real properties in Pasig City, as well as the corresponding assessments and real estate tax increases based thereon. Said schedule of market values for real properties was in violation of *Section 9 of P.D. No. 921* having been prepared solely by the City Assessor. The Supreme Court enjoined the City Treasurer of Pasig City from collecting the realty tax increases made on the basis of the invalidated schedule, thus:

> "Since it is now clear that P.D. 921 is still good law, it is equally clear that this Court's ruling in the Mathay/Javier/Puyat-Reyes cases (*supra*) is still the

[initials]

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> prevailing and applicable doctrine. And, applying the said ruling in the present case, it is likewise clear that the schedule of values prepared solely by the respondent municipal assessor is illegal and void."

2) *Suguitan vs. Marcelino, CA-G.R. SP No. 44155, December 22, 1997*

Invoking the above decision of the Supreme Court in *Ty vs. Trampe*, Alberto Suguitan, et al. instituted a Petition for Mandamus with the RTC of Pasig City. The petition sought to compel William Marcelino, the City Treasurer of Mandaluyong City, to act on his request for tax refund or credit. He claimed that the ruling in *Ty vs. Trampe* effectively nullified the schedule of market values for Mandaluyong City since both Mandaluyong City and Pasig City belong to the same Local Treasury and Assessment District and that his request pertains to the same assessment period. The RTC of Pasig City dismissed the petition for failure of the petitioner to first exhaust administrative remedies, there being factual issues raised in the petition.

On appeal by Suguitan, et al., the Court of Appeals, in *CA-G.R. SP No. 44155*, rendered its decision on December 22, 1997 in this manner, to wit:

> "Clearly then, the court a quo committed a reversible error when it held that in this case there was compliance with Section 9 of Presidential Decree No. 921. We find that the Decision in Ty vs. Trampe, supra, which nullified the 1994 schedule of real property values in Pasig City, applies as well to the schedule of market values for Mandaluyong City for the same assessment period, inasmuch as both cities belong to the same Local Treasury and Assessment District where there was no joint action by the Assessors concerned."

Accordingly, the Court of Appeals issued a writ of mandamus commanding the City Treasurer of Mandaluyong City to act on Suguitan's request for a refund of excess real estate taxes paid in 1995 and the succeeding years or for a tax credit conformably with the decision of the Supreme Court in *Ty vs. Trampe*.

3) *Marcelino vs. Suguitan, G.R. No. 141412, February 28, 2000*

The City Treasurer of Mandaluyong City appealed the above decision to the Supreme Court by way of Petition For Review on Certiorari, docketed as *Marcelino, et al. vs. Alberto Suguitan, et al., G.R. No. 141412*. On February 28, 2000, the Supreme Court issued a Minute Resolution denying the petition for being filed out of time, to wit:

> "Considering the petitioners' first motion for extension of time to file a petition for review on certiorari was denied in the resolution of February 14, 2000, the Court

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resolved to NOTE WITHOUT ACTION the petitioners' second motion for extension of three (3) days from February 15, 2000 or until February 18, 2000 within which to file the petition.

Acting on the Petition For Review on certiorari of the decision dated December 22, 1997 of the Court of Appeals in CA-G.R. SP No. 44155, the court resolved to DENY the petition for having been filed late on Feb. 18, 2000 due date being January 26, 2000, counsel for petitioner having received a copy of the resolution denying petitioner's Motion For Reconsideration of the assailed decision on January 11, 2000."

4) *Figuerres vs. Court of Appeals, 305 SCRA 214-215*

On the other hand, herein respondents City of Mandaluyong and City Treasurer of Mandaluyong City invoke the decision of the Supreme Court in *Figuerres vs. Court of Appeals, 305 SCRA 214-215.* In said decision, the Supreme Court affirmed the decision of the Court of Appeals dated February 8, 1995 dismissing the prohibition suit instituted by petitioner Belen Figuerres against respondent officials of the City of Mandaluyong to prevent them from enforcing the following Ordinances:

1) Sangguniang Bayan of Mandaluyong *Ordinance No. 119, Series of 1993* promulgated on April 22, 1993, containing the schedule of

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fair market value of the different classes of real properties in the City of Mandaluyong;

2) *Ordinance No. 125, Series of 1993* promulgated on November 11, 1993 fixing the assessment levels applicable to such classes of real property; and

3) *Ordinance No. 135, Series of 1994* promulgated on February 24, 1994, amending *Ordinance No. 119, par. 6* by providing that only one third (1/3) of the increase in the market values applicable to residential lands pursuant to the said ordinance shall be implemented in the years 1994, 1995 and 1996.

It bears stressing that the Schedule of Market Values of real properties in Mandaluyong City is the very subject of *Ordinance No. 119, Series of 1993*. The above three (3) ordinances are the same ordinances from which herein respondents City of Mandaluyong and City Treasurer of Mandaluyong City based their computation of taxes due from herein

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petitioner and from which the latter prayed for a refund amounting to P295,115.56. This amount represents payments of realty taxes from 1994 to 2000 for the increase in assessments as a result of the 1994 Schedule of Market Values For Real Properties in Mandaluyong City.

In its decision dated February 8, 1995, the Court of Appeals dismissed the petition as follows:

> "Petitioner's claim that Ordinances No. 119, 125 and 135 are null and void since they were prepared without the approval and determination of the Department of Finance is without merit.
>
> The approval and determination by the Department of Finance is not needed under the Local Government Code of 1991, since it is now the City Council of Mandaluyong that is empowered to determine and approve the aforecited ordinances. Furthermore, contrary to the claim of petitioner that the Department of Finance "has not promulgated the necessary rules and regulations for the classification, appraisal and assessment of real property as prescribed by the 1991 Local Government Code", Department of Finance Local Assessment Regulation No. 1-92 dated October 6, 1992, which is addressed to provincial, city, and municipal assessors and others concerned with the proper implementation of Section 219 of R.A. No. 7160, provides for the rules relative to the conduct of general revisions of real property assessments pursuant to Sections 201 and 219 of the Local Government Code of 1991.

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Regarding petitioner's claim that there is need for municipal ordinances to be published in the Official Gazette for their effectivity, the same is also without merit.

Section 511 of R.A. No. 7160 provides that –

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> The secretary to the Sanggunian concerned shall transmit official copies of such ordinances to the chief executive officer of the Official Gazette within seven (7) days following the approval of the said ordinances for publication purposes. The Official Gazette may publish ordinances with penal sanctions for archival and reference purposes.

Thus, the posting and publication in the Official Gazette of ordinances with penal sanctions is not a prerequisite for their effectivity. This finds support in the case of Tañada v. Tuvera (146 SCRA 446), wherein the Supreme Court declared that municipal ordinances are covered by the Local Government Code.

Moreover, petitioner failed to exhaust the administrative remedies available to him as provided for under Section 187 of R.A. No. 7160, before filing the instant petition with this Court.

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In fact, aside from filing an appeal to the Secretary of Justice as provided under Section 187 of R.A. No. 7160, the petitioner x x x could have appealed to the Local Board of Assessment Appeals, the decision of which is in turn appealable to the Central Board of Assessment Appeals as provided under Sections 226 and 230 of the said law.

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According to current jurisprudence, administrative remedies must be exhausted before seeking judicial intervention. (Gonzales v. Secretary of Education, 5 SCRA 657). If a litigant goes to court without first pursuing the available administrative remedies, his action is considered premature and not yet ripe for judicial determination (Allied Brokerage Corporation v. Commissioner of Customs, 40 SCRA 555).

As the petitioner has not pursued the administrative remedies available to him, his petition for prohibition cannot prosper (Gonzales v. Provincial Auditor of Iloilo, 12 SCRA 711).

WHEREFORE, the petition is hereby DENIED due course and is hereby DISMISSED."

On appeal by petitioner Belen Figuerres, the Supreme Court rendered judgment on December 10, 1999 upholding the constitutionality or validity of the three (3) ordinances in question. According to the Supreme Court, petitioner Belen Figuerres failed to rebut the presumption of validity in favor of the subject ordinances and to discharge the burden of proving that no public hearings were conducted prior to the enactment thereof. Thus:

"Petitioner is right in contending that public hearings are required to be conducted prior to the enactment of an ordinance imposing real property taxes. R.A. No. 7160, §186 provides that an ordinance levying taxes, fees, charges 'shall not be enacted without any prior public hearing conducted for the purpose.'

However, it is noteworthy that apart from her bare assertions, petitioner Figuerres has not presented any evidence to show that no public hearings were conducted prior to the enactment of the ordinances in question. On the other hand, the Municipality of Mandaluyong claims that public hearings were indeed conducted before the subject ordinances were adopted, although it likewise failed to submit any evidence to establish this allegation. However, in accordance with the presumption of validity in favor of an ordinance, their constitutionality or legality should be upheld in the absence of evidence showing that the procedure prescribed by law was not observed in their enactment. In an analogous case, *United States v. Cristobal,* [34 Phil. 825 (1916)] it was alleged that the ordinance making it a crime for anyone to obstruct waterways had not been submitted by the provincial board as required by §§2232-2233 of the Administrative Code. In rejecting this contention, the Court held:

> From the judgment of the Court of First Instance the defendant appealed to this court upon the theory that the ordinance in question was adopted without authority on the part of the municipality and was therefore unconstitutional. The appellant argues that there was no proof adduced during the trial of the case showing that said ordinance had been approved by the provincial board. Considering the provisions of law that it is the duty of the provincial board to approve or disapprove ordinances adopted by the municipal councils of the different municipalities, we will assume, in the absence of proof to the contrary, that the law has been complied with. We have a right to assume that officials have done that which the law requires them to do, in the absence of positive proof to the contrary.

Furthermore, the lack of a public hearing is a negative allegation essential to petitioner's cause of action in the present case. Hence, as petitioner is the party asserting it, she has the burden of proof [Industrial Finance Corporation v. Tobias, 78 SCRA 28 (1977)]. Since petitioner failed to

> rebut the presumption of validity in favor of the subject ordinances and to discharge the burden of proving that no public hearings were conducted prior to the enactment thereof, we are constrained to uphold their constitutionality or legality."

Petitioner's Arguments

Petitioner claims that the decision of the Court of Appeals in *Suguitan vs. Marcelino, CA-G.R. SP No. 44155* became final and executory, and hence the law of the case, when the Supreme Court in *Marcelino vs. Suguitan, et al., G.R. No. 141412* denied Marcelino's Petition For Review on Certiorari of the decision of the Court of Appeals in *CA-G.R. SP No. 44155.* It contends that since the Schedule of Market Values for Real Properties in the City of Mandaluyong was already declared null and void in the *Suguitan case,* the Regional Trial Court was in patent error when it held in its Decision that petitioner's real estate tax payments based upon the same Schedule of Market Values for Real Properties in the City of Mandaluyong were legal and correct, and that respondents were not liable for the refund thereof.

Respondents City of Mandaluyong and City Treasurer's Theory

On the other hand, respondents counterargue that the *Ty vs. Trampe* decision is not applicable to the City of Mandaluyong because the City and its concerned officials were not parties to the case and consequently cannot be bound by said decision. The *Suguitan vs. Marcelino* decision cannot be considered a doctrinal ruling in the concept of *stare decisis* because the issues raised by Marcelino were not passed upon by the Supreme Court after the petition for review was dismissed on technicality – that being filed out of time.

Respondents maintain that the Supreme Court in *Figuerres vs. Court of Appeals (305 SCRA 206)* upheld the legality and validity of *Ordinance Nos. 119, 125, S-1993 and Ordinance 135, S-1994. Ordinance No. 119, S-1993* contains the Schedule of Market Values of Mandaluyong City. It is clear from the decision of the Supreme Court affirming the decision of the Court of Appeals that *Ordinances Nos. 119 and 125, S-1993 and 135, S-1994* of the City of Mandaluyong were declared valid and legal. Consequently, said ordinances are still existing

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and enforceable. The doctrines highlighted in said case were applied to the much later case of *Reyes vs. Court of Appeals (320 SCRA 486)*. Until such time when this ruling in *Figuerres case* is overruled or superseded by another, the same ordinances are still valid and enforceable. Any assessment made pursuant to it is, therefore, legal.

The RTC Decision

In its assailed Decision, the RTC of Mandaluyong City held:

> "x x x. Invoking the Ty vs. Trampe case, plaintiff-appellant declared that the schedule of market values of real property is also applicable in Mandaluyong City since Quezon City, Pasig City, Muntinlupa, Mandaluyong, Marikina and San Juan belong to the same treasury and assessment district. Such assumption is misleading as the schedule of market values of real property in Mandaluyong is contained in Ordinance Nos. 119, S-1993, 125, S-1993 and 135, S-1994 which were declared valid, legal and constitutional by the Supreme Court in the case of Figuerres vs. Court of Appeals. Since defendants-appellees based their assessments on the Schedule of Market Values for Mandaluyong City pursuant to Ord. No. 119, S-1993 in so far as the plaintiff-appellant's tax obligations are concerned, it logically follows that such assessments and the taxes paid thereon are legal and correct hence, defendants-appellees are not liable."

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THE COURT *EN BANC'S* RULING

We affirm the appealed decision of the RTC of Mandaluyong City.

It is a jurisprudential rule that the decision of the Supreme Court applying and/or interpreting the laws shall form part of the legal system of the Philippines (*Article 8, New Civil Code of the Philippines*). Judicial decisions of the Supreme Court are authoritative and precedent setting, while those of the inferior courts and the Court of Appeals are merely persuasive *(Persons and Family Relations, 4th ed., 2004, by Atty. Melencio S. Sta. Maria, Jr., p. 15)*.

The decision of the Supreme Court in the appealed case of *Suguitan vs. Marcelino* did not pass upon the validity or constitutionality of the schedule of market values of real properties for Mandaluyong City. But rather the appealed case was dismissed for having been filed out of time, and hence, did not constitute a precedent.

On the other hand, in the *Figuerres case,* the Supreme Court upheld the validity or constitutionality of *Ordinances No. 119, Series of 1993, No. 125, Series of 1993* and *No. 135, Series of 1994.* Until such time when this ruling is overruled or superseded by another, the Figuerres ruling prevails and remains the applicable doctrine. Moreover, the Supreme Court, in *Reyes vs. Court of Appeals, 320 SCRA 493*, reaffirmed the Figuerres ruling, to wit:

> "In *Figuerres vs. Court of Appeals, G.R. No. 119172, March 25, 1999, 305 SCRA 206*, where the municipality failed to conduct public hearings prior to enacting the revisions on the schedule of fair market values and assessment level of classes of real estate properties, the Court said:
>
>> 'Petitioner is right in contending that public hearings are required to be conducted prior to the enactment of an ordinance imposing real property taxes. R.A. No. 7160, Sec. 186, provides that an ordinance levying taxes, fees, or charges 'shall not be enacted without any prior public hearing conducted for the purpose.'
>>
>> However, it is noteworthy that apart from her bare assertions, petitioner Figuerres has not presented any evidence to show that no public hearings were conducted prior to the enactment of the ordinances in question. On the other hand, the Municipality of Mandaluyong claims that public hearings were indeed conducted before the subject ordinances were adopted, although it likewise failed to submit any evidence to establish this allegation. However, in accordance with the presumption of validity in favor of an ordinance, their constitutionality or legality should be upheld in the absence of evidences showing that procedure prescribed by law was not observed in their enactment. x x x.

> Furthermore, the lack of a public hearing is a negative allegation essential to petitioner's cause of action in the present case. Hence, as petitioner is the party asserting it, she has the burden of proof. Since petitioner failed to rebut the presumption of validity in favor of the subject ordinances and to discharge the burden of proving that no public hearings were conducted prior to the enactment thereof, we are constrained to uphold their constitutionality or legality.

We find *Figuerres* instructive. Petitioners have not proved in the case before us that the *Sangguniang Bayan* of San Juan failed to conduct the required public hearings before the enactment of Ordinance Nos. 87, 91, 95, 100 and 101. Although the Sanggunian had the control of records or the better means of proof regarding the facts alleged, petitioners are not relieved from the burden of proving their averments [People vs. Pajenado, 31 SCRA 812, 817 (1970)]. Proof that public hearings were not held falls on petitioners' shoulders. For failing to discharge that burden, their petition was properly dismissed."

All the foregoing considered and applying the *Figuerres ruling*, We rule that the three (3) ordinances in question are valid. The increase of the real estate tax assessed against and collected from herein petitioner pursuant to said three (3) ordinances is accordingly valid. Hence, petitioner's claim for refund/credit must perforce be denied.

In the recent case of the *"City Assessor and City Treasurer of Mandaluyong vs. Rodolfo R. Bonifacio", C.T.A. E.B. No. 148,*

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promulgated on July 27, 2006, involving the same three (3) Ordinances in question and the same issue, this Court *En Banc*, applying the *Figuerres ruling*, likewise ruled that the three (3) Ordinances in question are valid and that the increase of the real estate tax assessed and collected from the petitioner therein pursuant to said three (3) Ordinances is valid, and denied his claim for tax refund.

Finally, the Court *En Banc* likewise agrees with the findings and conclusion of the RTC of Mandaluyong City affirming the decision of the Metropolitan Trial Court of Mandaluyong City dismissing the complaints for failure of herein petitioner to exhaust the administrative remedies prescribed under *Sections 187, 226 and 252 of the Local Government Code of 1991.*

In view of the above conclusion thus reached, the Court finds no need to pass upon the other incidental issues raised in this petition for being moot and academic.

WHEREFORE, premises considered, the appeal is hereby **DISMISSED**. Accordingly, the decision of the Regional Trial Court of

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Mandaluyong City, Branch 211, dated September 25, 2005, in SCA Case No. MC05-561-A is hereby **AFFIRMED**.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
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.

ERNESTO D. ACOSTA
Presiding Justice

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