CTA Form No. 8 (For DCC)

24-000608-0039

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11644

A. MENARINI PHILIPPINES, INC.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legaspi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
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Bureau of Internal Revenue
Litigation Division, Room 703, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
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GATMAYTAN YAP PATACSIL GUTIERREZ & PROTACIO
30th Floor, 88 Corporate Center
Sedeño corner Valero Streets
Salcedo Village, 1227 Makati City

GREETINGS:

You are hereby notified by these presents that on **July 9, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 13, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

A. MENARINI PHILIPPINES, INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11644

Members:

RINGPIS-LIBAN, *PJ, Chairperson,*
REYES-FAJARDO *and,*
ANGELES, *JJ.*

Promulgated:

JUL 09 2026; 1:45PM

x - x

RESOLUTION

For this Court's resolution is respondent's *Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court*[1] (*Motion*) filed *via* personal filing on October 17, 2025 and electronically on October 20, 2025. On January 08, 2026, petitioner filed its *Comment/Opposition (To the Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court dated October 15, 2025)*[2] (*Comment*).

In its *Motion*, respondent prays for the early resolution of the question of jurisdiction, and for the dismissal of the *Petition for Review* dated October 07, 2024[3] (*Petition for Review*).

Respondent states that the question of jurisdiction may easily be resolved on the face of the petition alone. Respondent avers that petitioner received the Bureau of Internal Revenue's (BIR) letter denying the claim for refund (Denial) on August 21, 2024.[4] Thus, the *Petition for Review* filed on October 08, 2024 was filed beyond the

[1] *Petition for Review* dated October 07, 2024 [Petition], Docket, pp. 297 to 304.
[2] Docket, unpaginated.
[3] Docket, pp. 6 to 39.
[4] Docket, pp. 241.

thirty (30)-day period for filing an appeal from the decision of the Commissioner of Internal Revenue (CIR) under Section 11 of Republic Act (RA) No. 1125,[5] as amended by RA No. 9282.[6]

In its *Comment,* petitioner counters that the *Motion* should be denied. Petitioner maintains that the *Petition for Review* was timely filed because it only received respondent's Denial on September 20, 2024.[7]

Petitioner further contends that the receipt of the Denial by its forwarding and logistics partner Bollore Philippines Logistics Inc. (Bollore), or Bollore's customs broker Nague Malic Manawa & Associates (NMM) on August 21, 2024 cannot be treated as the reckoning point for the filing of the *Petition for Review* because petitioner was not allegedly made aware of such receipt on said date.[8]

Petitioner alleges that "Bollore and NMM acted in bad faith,"[9] and that Bollore "deliberately concealed and actively misled" petitioner regarding the date of receipt of the Denial,[10] thus depriving petitioner of the opportunity to file the *Petition for Review* before this Court.[11] Petitioner also argues that Bollore's actions are analogous to extrinsic fraud under the Rules of Court warranting the annulment of judgments, and that Bollore deprived petitioner of its due process rights in relation to the Denial.[12] In any event, petitioner submits that the parties' allegations on the timeliness of the *Petition for Review* and the jurisdiction of this Court require the reception and evaluation of evidence. Thus, petitioner insists that trial must proceed.[13]

After a careful review of the *Motion,* the *Comment,* and the *Petition for Review,* this Court finds the *Motion* meritorious.

At the outset, this Court finds that respondent's *Motion* is in the nature of a motion to dismiss on the ground of lack of jurisdiction.

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5 AN ACT CREATING THE COURT OF TAX APPEALS, June 16, 1954.

6 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES, March 30, 2004.

7 *COMMENT/OPPOSITION (To the Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court dated October 15, 2025)* dated January 08, 2026 [Comment], par. 7, Docket, unpaginated.

8 Comment, par. 8, Docket, unpaginated.

9 Comment, par. 22, Docket, unpaginated.

10 Comment, par. 14, Docket, unpaginated.

11 Comment, par. 16, Docket, unpaginated.

12 Comment, par. 18, Docket, unpaginated.

13 Comment, par. 9, Docket, unpaginated.

Under Section 5, Rule 15, of the 2019 Amendments to the 1997 Rules of Civil Procedure,[14] which is suppletory to the Revised Rules of the Court of Tax Appeals,[15] a motion to dismiss is a litigious motion. Section 6 of the same rule provides that the Court may, in the exercise of its discretion, call a hearing on the motion if necessary for its resolution.

Here, the Court finds it unnecessary to set the *Motion* for hearing, or to receive evidence in resolving the same. The material facts necessary to resolve the jurisdictional issue appear from petitioner's own allegations in the *Petition for Review* and the *Comment.*

In this regard, Section 1, Rule 9, of the 2019 Amendments to the 1997 Rules of Civil Procedure,[16] provides:

> Section 1. Defenses and objections not pleaded. — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

Further, under Section 4, Rule 129, of the Revised Rules of Evidence,[17] admissions made by parties in the course of proceedings do not require proof. Thus:

> RULE 129
>
> What Need Not Be Proved
>
> x x x
>
> Section 4. *Judicial admissions.* — An **admission**, verbal or **written**, made by the party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made. (2a) (emphasis supplied)

In *Tranquilino Agbayano v. Lupa Realty Holding Corporation*,[18] the Supreme Court provided the following parameters with regard to judicial admissions:

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[14] A.M. No. 19-10-20-SC.
[15] A.M. No. 05-11-07-CTA.
[16] A.M. No. 19-10-20-SC.
[17] A.M. No. 19-08-15-SC.

> On the other hand, American jurisprudence sets the following parameters on judicial admissions:
>
> A judicial admission is a formal statement, either by party or his or her attorney, in course of judicial proceeding which removes an admitted fact from field of controversy. It is a voluntary concession of fact by a party or a party's attorney during judicial proceedings.
>
> **Judicial admissions are used as a substitute for legal evidence at trial.** Admissions made in the course of judicial proceedings or judicial admissions **waive or dispense with, the production of evidence, and the actual proof of facts by conceding for the purpose of litigation that the proposition of the fact alleged by the opponent is true**. x x x
>
> A judicial admission is a deliberate, clear, unequivocal statement of a party about a concrete fact within that party's peculiar knowledge, not a matter of law. x x x In order to constitute a judicial admission, the statement must be one of fact, not opinion. To be a judicial admission, a statement must be contrary to an essential fact or defense asserted by the person giving the testimony; it must be deliberate, clear and unequivocal x x x.
>
> Judicial admissions are evidence against the party who made them, and are considered conclusive and binding as to the party making the judicial admission. A judicial admission bars the admitting party from disputing it. x x x (emphasis and underscoring supplied)

A party may make judicial admissions in (a) the pleadings, (b) during the trial, either by verbal or written manifestations or stipulations, or (c) in other stages of the judicial proceeding.[19]

In *Donabelle V. Gonzales-Saldana v. Spouses Gordon R. Niamatali and Amy V. Niamatali*[20] and in other cases,[21] the Supreme Court held that, *"[t]he allegations, statements or admissions contained in a pleading are conclusive as against the pleader. A party cannot subsequently take a position contrary to or inconsistent with what was pleaded."*

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[18] G.R. No. 201193, June 10, 2019 [Per J. Caguioa, Second Division].

[19] Spouses Jose N. Binarao v. Preciosa Binarao v. Plus Builders, Inc., G.R. No. 154430, June 16, 2006 [Per J. Sandoval-Gutierrez, Second Division].

[20] G.R. No. 226587, November 21, 2018 [Per J. Reyes, Jr., J., Third Division].

[21] Eastern Shipping Lines, Inc. v. BPI/Ms Insurance, G.R. No. 182864, January 12, 2015 [Per J. Perez, First Division]; Spouses Jose N. Binarao v. Preciosa Binarao v. Plus Builders, Inc., G.R. No. 154430, June 16, 2006 [Per J. Sandoval-Gutierrez, Second Division]; Joshua S. Alfelor and Maria Katrina S. Alfelor v. Josefina M. Halasan and The Court of Appeals, G.R. No. 165987, March 31, 2006 [Per J. Callejo, Sr., First Division]; and Republic of the Philippines, represented by the Chief of the Philippine National Police, v. Thi Thu Thuy T. De Guzman, G.R. No. 175021, June 15, 2011 [Per J. Leonardo-De Castro, First Division].

In *Spouses Manuel and Florentina Del Rosario v. Gerry Roxas Foundation,*[22] the Supreme Court determined that *"[t]he allegations in petitioner's Complaint constitute judicial admissions,"* and that these may be relied upon in order to determine whether the complaint was filed within the appropriate reglementary period. Thus:

> Corollarily, since the deprivation of physical possession, as alleged in petitioners' Complaint and as earlier discussed, was attended by strategy and force, this Court finds that the proper remedy for the petitioners was to file a Complaint for Forcible Entry and not the instant suit for unlawful detainer.
>
> Petitioners should have filed a Complaint for Forcible Entry within the reglementary one-year period from the time of dispossession.
>
> Petitioners likewise alleged in their Complaint that respondent took possession and occupancy of subject property in 1991. Considering that the action for forcible entry must be filed within one year from the time of dispossession, the action for forcible entry has already prescribed when petitioners filed their Complaint in 2003. As a consequence, the Complaint failed to state a valid cause of action against the respondent. (underscoring supplied)

In its *Comment,* petitioner states that it reiterates its arguments in the *Petition for Review*. The following allegations are culled from the *Petition for Review*:

1. "On June 07, 2024, [petitioner] filed the Claim with the BIR which sought the refund of erroneously paid excise taxes amounting to ₱14,132,100.00."[23]

2. "Bollore Philippines Logistics, Inc., [petitioner's] forwarding and logistics provider, and Bollore's customs broker, Nague Malic Magnawa & Associates, processed the Claim with the BIR. In this regard, [petitioner] expected Bollore to timely and accurately report to [petitioner] the status of the Claim, including any decision rendered by the BIR in relation to the Claim."[24]

3. "Bollore committed to 'undergo process of VAT and Excise Tax Refund.' Bollore informed [petitioner] that NMM would submit the documents related to the Claim to, and would process the Claim with, the BIR. In this regard, [petitioner] issued a Secretary's Certificate dated February 19, 2024 which authorized NMM's employees, Messrs. Michael G. Tede and **Joseph B. Cuilao**, as follows:

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[22] G.R. No.170575, June 08, 2011 [Per J. Del Castillo, First Division].
[23] Petition, par. 3, Docket, pp. 297 to 304.
[24] Petition, par. 4, Docket, pp. 297 to 304.

> RESOLVED FINALLY, that [A. Menarini] also authorizes the following: Mr. Michael G. Tede and **Joseph B. Cuilao** of [NMM] **to submit, process, follow up, and pick up the necessary documents related to the application for tax refund** of [A. Menarini]." (emphasis and underscoring supplied) [25]

4. "Bollore transmitted the original of the Denial to [petitioner] on September 20, 2024."[26]

5. "This means that Bollore transmitted the original of the Denial to [petitioner] on the 30th day from Bollore's receipt of it on August 21, 2024."[27]

6. "On September 24, 2024, at 2:53 p.m., Bollore sent an email to [petitioner] stating that Bollore's subcontractor and customs broker, NMM, received the original of the Denial from the BIR on August 27, 2024."[28]

7. "[O]n September 24, 2024, at 4:14 p.m., Bollore sent another email to [petitioner] stating that the 'correct date the letter was received is August 26, 2024.'"[29]

8. "[I]n the same afternoon of September 24, 2024, Bollore [sic] engaged the undersigned law firm to draft a *Petition for Review* for filing with this Honorable Court on the next day, September 25, 2024."[30]

9. "At around 10:00 a.m. of September 25, 2024, [petitioner] received a call from Bollore stating that it may have received the original of the Denial from the BIR on August 21, 2024."[31]

10. "Bollore confirmed that the original of the Denial was received from the BIR on August 21, 2024. Bollore then sent a copy of an *Affidavit of Undertaking* dated September 25, 2024 signed by **Mr. Joseph B. Cuilao,** NMM's processor, stating that NMM received the Denial from the BIR on August 21, 2024."[32]

11. "At around 4:00 p.m. of September 25, 2024, [petitioner] received a call from the BIR stating that someone was requesting a copy of the Denial from the BIR's records. During the call, the BIR's representative stated that, on August 21, 2024, Bollore's customs broker, NMM, went to the BIR's office to obtain a copy of the Denial."[33]

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[25] Petition, par. 33, Docket, pp. 297 to 304.
[26] Petition, par. 5, Docket, pp. 297 to 304.
[27] Petition, par. 8.2, Docket, pp. 297 to 304.
[28] Petition, par. 6.3, Docket, pp. 297 to 304.
[29] Petition, par. 6.4, Docket, pp. 297 to 304.
[30] Petition, par. 6.5, Docket, pp. 297 to 304.
[31] Petition, par. 6.6, Docket, pp. 297 to 304.
[32] Petition, par. 6.8, Docket, pp. 297 to 304.
[33] Petition, par. 6.9, Docket, pp. 297 to 304.

12. "[Petitioner] decided not to push through with the filing and service of the Petition for Review on September 25, 2024."[34]

Based on the foregoing, petitioner admits that Bollore and NMM processed its claim for refund; **that petitioner executed a Secretary's Certificate authorizing NMM's processor "to submit, process, follow up, and pick up the necessary documents related to the application for tax refund;"** and that the Denial was received by NMM's processor, Mr. Cuilao, on August 21, 2024.

These admissions are sufficient to resolve the issue of jurisdiction. Basic as a hornbook principle is that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint.[35] In a number of cases,[36] the Supreme Court has held that *"what determines the nature of an action as well as which court has jurisdiction over it are the allegations of the complaint and the character of the relief sought."*

Section 11 of RA No. 1125,[37] as amended, by RA No. 9282[38] provides that:

> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. - Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

The perfection of an appeal, or the filing of a petition for review, within the statutory or reglementary period is mandatory and

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[34] Petition, par. 7, Docket, pp. 297 to 304.

[35] Editha Padlan v. Elenita Dinglasan and Felicisimo Dinglasan, G.R. No. 180321, March 20, 2013 [Per J. Peralta, Third Division].

[36] Spouses Jorge J. Huguete and Yolanda B. Huguete v. Spouses Teofedo Amrillo Embudo and Marites Huguete-Embudo, G.R. No. 149554, July 1, 2003 [Per J. Ynares-Santiago, First Division]; Spouses Romero Pajares and Ida T. Pajares v. Remarkable Laundry and Dry Cleaning, Represented by Archemedes G. Solis, G.R. No. 212690, February 20, 2017 [Per J. Del Castillo, First Division].

[37] AN ACT CREATING THE COURT OF TAX APPEALS, June 16, 1954.

[38] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES, March 30, 2004.

jurisdictional;[39] otherwise, the decision becomes final and executory.[40]

Here, petitioner expressly authorized NMM, through Mr. Cuilao, to submit, process, follow up, and pick up documents related to petitioner's application for tax refund. The authority granted was issued in relation to the processing of petitioner's refund claim before the BIR. Moreover, the Denial was a document directly related to petitioner's application for tax refund.

Accordingly, when NMM's processor, Mr. Cuilao received the Denial from the BIR on August 21, 2024, such receipt was receipt by petitioner through its authorized representative. Under the doctrine of imputed knowledge, notice to the agent, acting within the scope of authority conferred by the principal, is notice to the principal.[41] Expounding, the Supreme Court explained in *Trinidad Francisco v. Government Service Insurance System*[42] that:

> [K]nowledge of facts acquired or possessed by an officer or agent of a corporation in the course of his employment, and in relation to matters within the scope of his authority, is notice to the corporation, whether he communicates such knowledge or not.

Since Mr. Cuilao, in accepting the Denial, was acting within the scope of his authority, the same constituted notice to petitioner, regardless of when petitioner actually physically received the Denial.

Petitioner's theory would have the running of the period to appeal depend, not on receipt of the adverse decision by an authorized representative, but on the transmission of that decision from the authorized representative to its principal. **This cannot be sustained.** The statutory period to appeal cannot be made to depend on the private arrangements or disputes between a party and its authorized representative.

Thus, the thirty (30)-day period to file the *Petition for Review* began to run on **August 21, 2024**, and expired on **September 20,**

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39 Roman Santos, Jr. and Herminia Santos v. The Hon. Court of Appeals and Francisco S. Nigos, G.R. No. L-56614, July 28, 1987 [Per C.J. Teehankee, First Division].

40 TFS, Incorporated v. Commissioner of Internal Revenue, G.R. No. 166829, April 19, 2010 [Per J. Del Castillo, Second Division].

41 Edita A. De Leon, Lara Bianca L. Sarte, and Renzo Edgar L. Sarte, v. The Manufacturers Life Insurance Company (Phils.) Inc., Zenaida S. Sarte, Jessica Sarte-Gustilo, Vilma C. Caparros, Edgar Alvin C. Caparros, and Roberto Moreno, G.R. No. 243733, January 12, 2021 [Per J. Carandang, First Division].

42 G.R. No. L-18287, March 30, 1963 [Per J. Reyes, J.B.L., *En Banc*].

2024. The *Petition for Review* filed on October 08, 2024 was filed out of time.

Moreover, petitioner's allegation that Bollore acted in bad faith does not alter the result. Even assuming that Bollore or NMM failed to promptly transmit the Denial to petitioner, such does not negate the fact of receipt of the Denial by petitioner's authorized representative. Any alleged bad faith, fraud, or misrepresentation by petitioner's representative may give rise to appropriate remedies as between petitioner and its representative. It may not, however, extend the statutory period to appeal or confer jurisdiction upon this Court where none exists.

Petitioner's due process argument likewise cannot be sustained. The essence of due process is notice and an opportunity to be heard.[43] In this case, the Denial was received by an individual whom petitioner itself authorized to process the refund claim and pick up documents related thereto. Moreover, petitioner's alleged lack of actual knowledge resulted not from any act of respondent, but from the failure of petitioner's own representatives to promptly transmit the Denial. In any event, even after petitioner allegedly learned on September 25, 2024 that the Denial had been received as early as August 21, 2024, it still filed its *Petition for Review* only on October 08, 2024, or thirteen (13) days later.

Neither is petitioner's invocation of extrinsic fraud under the Rules of Court meritorious. Rule 47 of the Rules of Court governs petitions for the annulment of judgments or final orders and resolutions of Regional Trial Courts.

More importantly, in *Gregoria Palanca v. The American Food Manufacturing Company and Tiburcio Evalle, in his capacity as Director of Patents,*[44] the Supreme Court explained that not every kind of fraud, but only extrinsic fraud is sufficient ground to set aside a judgment. Accordingly,

> "[e]xtrinsic fraud refers to any fraudulent **act of the successful party** in a litigation which is committed outside the trial of a case against the defeated party (emphasis and underscoring supplied)."[45] Thus, the Supreme Court determined that where the fraud alleged

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[43] Ray Peter O. Vivo v. Philippine Amusement and Game Corporation (PAGCOR), G.R. No. 187854, November 12, 2013 [Per J. Bersamin, *En Banc*].
[44] G.R. No. L-22822, August 30, 1968 [Per. J. Zalvidar, *En Banc*].
[45] Ibid.

was committed by a party's own counsel and not by its opponent, extrinsic fraud is not present.[46]

Similarly, here, the alleged fraudulent or misleading acts were committed by the petitioner's own representative in relation to the internal handling or transmission of documents. The fraud alleged by petitioner, even if assumed to be true, was not committed by respondent. Thus, it did not render the BIR's service of the Denial ineffective.

Finally, this Court rejects petitioner's argument that trial must proceed before the issue of jurisdiction may be resolved. Jurisdiction over the subject matter is conferred by law and is determined from the allegations of the petition and the applicable laws.[47] Moreover, the Supreme Court in *Commissioner of Internal Revenue v. Mindanao I Geothermal Partnership* held that, *"[t]he Court ex mero motu may take cognizance of lack of jurisdiction* ***at any point in the case*** *where that fact is developed. The court has a clearly recognized right to determine its own jurisdiction in any proceeding."*[48]

Thus, where the petition itself shows that the appeal was filed beyond the statutory period, the Court need not proceed to trial as this Court cannot act on the merits of a petition over which it has not acquired jurisdiction.

WHEREFORE, premises considered, respondent's *Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court* is **GRANTED**.

The *Petition for Review* filed on October 08, 2024 is **DISMISSED** for lack of jurisdiction, having been filed out of time.

SO ORDERED.

(On Leave)

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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[46] *Ibid.*
[47] Gregorio Amoguis Tito Amoguis v. Concepcion Ballado and Mary Grace Ballado Ledesma, and St. Joseph Realty, Ltd., G.R. No. 189626, August 20, 2018, [Per. J. Leonen, Third Division].
[48] G.R. No. 192006, November 14, 2018.

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice