REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

-versus-

REGIONAL TRIAL COURT BRANCH 220 QUEZON CITY AND OSCAR GARCIA y ITCHON,
Respondents.

CTA SCA CASE NO. 0021

Members:
RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
MAR 17 2025
9:05 a.

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DECISION

RINGPIS-LIBAN, J.

THE CASE

Before the Court is a Petition for Certiorari filed by petitioner People of the Philippines praying that judgment be rendered as follows:

a. The Resolutions dated November 30, 2023 and February 21, 2024 of the Regional Trial Court Branch 220 – Quezon City (trial court) in Criminal Case No. Q-11-173061 & Q-11173062 be reversed and set aside; and

b. A new resolution be issued finding private respondent guilty beyond reasonable doubt of violating Sections 254 and 255 of the National Internal Revenue Code (NIRC) of 1997, as amended, for tax evasion and failure for file return in his Annual Income Tax Return (ITR) for taxable year.

THE PARTIES

Petitioner Bureau of Internal Revenue (BIR) is the government agency mandated to collect national internal revenue taxes for nation building. The lawyers of the BIR are duly authorized pursuant to the Memorandum of Agreement dated March 17, 2010, executed between the Office of the Solicitor General (OSG) and the BIR. Petitioner may be served with notices and processes of the Court at the Prosecution Division, Room 704, 7th Floor, Bureau of Internal Revenue, National Office Building, Senator Mirriam P. Defensor-Santiago Avenue, Diliman, Quezon City.[1]

Private respondent Oscar Itchon Garcia is a registered taxpayer with Tax Identification Number (TIN) 155-654-430-000, Filipino, of legal age, and may be served with notices and processes at 14/F Strata 100 Bldg. F. Ortigas Jr., Road Ortigas Center, 1605 Pasig City and through his counsel at 589 Colgate St., Greenhills East, Mandaluyong City.[2]

Public respondent Regional Trial Court, Branch 220- Quezon City is the court which issued the assailed Decision and Resolution in Criminal Case Nos. Q-11-173061 & Q-11-173062.[3]

THE FACTS

Filed before the trial court against private respondent are the Informations for violation of Sections 254 and 255 of the National Internal Revenue Code (NIRC) of 1997 as amended, allegedly committed as follows:

Criminal Case No. Q-11-173061

> "That on or about the 15th day of April 2008, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named private respondent, **OSCAR GARCIA y ITCHON,** an individual taxpayer who derived income within the Philippines, being the Chairman of the Board of Trustee of Metropolitan Waterworks and Sewerage System, as withholding agent, both for its Regulatory and Corporate Offices for taxable year 2007, and received the total amount of undeclared income of **Php2,611,900.67** and therefore with tax liability due in the amount of **Php794,408.02**, exclusive of increments and therefore obligated to pay the said amount under Sections 23 and 24 of the Tax Code, did then and there, willfully, unlawfully and feloniously attempt to make or deliberately defeat payment of correct tax in the

[1] Petition for Certiorari, p. 3.
[2] Ibid., p. 4.
[3] Ibid., p. 4.

aforementioned amount by having willfully failed to report or declare his total income for the same taxable year and thus deliberately attempted to evade or defeat payment the correct tax to the damage and prejudice of the government.

CONTRARY TO LAW."

Criminal Case No. Q-11-173062

"That on or about the 15th day of April 2008, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **OSCAR GARCIA y ITCHON**, an individual taxpayer, who derived income within the Philippines having received the amounts for taxable year 2007 from Metropolitan Waterworks and Sewerage System, as the withholding agent, to wit:

1. Chairman – Board of Trustee-MWSS-Corporate Office-P1,893,700.07;
2. Chairman – Board of Trustee-MWSS-Regulatory Office-P718,200.00;

in the total amount of **Php2,611,900.67**, with a total basic tax liability due in the total amount of **Php794,408.02**, exclusive of increments, and therefore required to file his income tax return and pay the correct tax for taxable year 2007, did then and there, willfully, unlawfully and feloniously having deliberately fail to file his income tax return for the said taxable year as required under the law, not being qualified to the system of substituted filing of return under Revenue Regulation No. 3-002, as amended, to the damage and prejudice of the government.

CONTRARY TO LAW."

On November 20, 2011, the trial court found probable cause[4] and issued a warrant of arrest[5] against private respondent. He then posted a cash bond for his provisional liberty in the amount of Php28,000.00 for both cases on December 22, 2011.[6]

On February 3, 2012, private respondent filed an "Urgent Motion to Redetermine Probable Cause and Dismiss the Case."[7]

[4] RTC Docket, Order, p. 70.
[5] Ibid., p. 72.
[6] Ibid., p. 76.
[7] Ibid., pp. 112-152.

On March 2, 2012, petitioner filed its "Comment/Opposition (Re: Accused's Urgent Motion to Redetermine Probable Cause and Dismiss the Case dated February 3, 2012)"[8] for Criminal Case No. Q-11-173062.

On March 7, 2012, petitioner filed its "Comment/Opposition (Re: Accused's Urgent Motion to Redetermine Probable Cause and Dismiss the Case dated February 3, 2012)"[9] for Criminal Case No. Q-11-173061.

On March 21, 2012, the petitioner filed an "Ex-Parte Motion to Admit Amended Information."[10]

In the Order dated June 27, 2012,[11] the trial court granted the Motion to Admit Amended Information and ordered the Urgent Motion to Redetermine Probable Cause and Dismiss the Case submitted for resolution of the Court.

In the Order dated August 29, 2012, the trial court denied for lack of merit the private respondent's Urgent Motion to Redetermine Probable Cause and Dismiss the Case.

Upon arraignment on April 17, 2012, private respondent, assisted by his counsel, entered a plea of not guilty to the crimes charged against him.[12]

The Pre-trial Conference was conducted and concluded on December 12, 2012.[13]

Trial thereafter ensued.

On March 8, 2018, petitioner filed its Formal Offer of Evidence.[14]

On April 13, 2018, private respondent filed a "Comment/Objections to Formal Offer of Evidence."[15]

On August 22, 2018, petitioner filed a "Motion to Admit Attached Supplemental Formal Offer of Evidence (with Request for a Commissioner's Hearing)."[16]

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[8] Ibid., pp., 160-165.
[9] Ibid., pp. 174-179.
[10] Ibid., pp. 180-185.
[11] Ibid., p. 189.
[12] Ibid., Order, p. 192.
[13] Ibid., Order, pp. 200-201.
[14] Ibid., pp. 408-411.
[15] Ibid., pp. 415-419.
[16] Ibid., pp. 422- 433.

In the Order of the trial court dated October 10, 2018, the Supplemental Formal Offer of Exhibits of petitioner was granted.[17]

On December 9, 2019, private respondent filed his "Comment/Objections to Supplemental Formal Offer of Evidence with Motion to Admit and Notice of Change of Address."[18]

On January 2, 2020, the trial court issued a Resolution on petitioner's Formal Offer of Evidence and Supplemental Formal Offer of Evidence.[19]

On January 22, 2020, private respondent filed a "Motion for Leave to File Demurrer to Evidence."[20]

On January 31, 2020, the trial court issued an Order granting private respondent's "Motion for Leave to File Demurrer to Evidence."[21]

On February 18, 2020, private respondent filed his "Demurrer to Evidence."[22]

On March 22, 2020, petitioner filed its "Comment/Opposition (to the Demurrer to Evidence dated February 10, 2020).[23]

On July 27, 2020, the Court *a quo* issued an Order denying the Demurrer to Evidence.[24]

On February 10, 2021, private respondent filed his Motion for Reconsideration.[25]

In the Order[26] dated August 3, 2023, the public prosecutor moved that private respondent be declared to have waived his right to present evidence in view of the continued absence of private respondent and his counsel. Hence, the case was considered submitted for decision.

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[17] Ibid., p. 545.
[18] Ibid., pp. 552-559.
[19] Ibid., p. 568.
[20] Ibid., pp. 569-572.
[21] Ibid., p. 574.
[22] Ibid., pp. 575-600.
[23] Ibid., pp. 657- 668.
[24] Ibid., pp. 672-676.
[25] Ibid., pp. 681-692.
[26] Ibid., p. 711.

On November 30, 2023, the trial court promulgated a Decision[27] finding private respondent not guilty of the crimes charged. The disposition portion of which reads:

> "**WHEREFORE,** premises considered, accused is **NOT GUILTY** of Violation of Section 254 of the 1997 NIRC (Tax Evasion) and Violation of Section 255 of the 1997 NIRC 255 (Failure to file Return) for failure of the prosecution to prove his guilt beyond reasonable doubt. Accordingly, he is hereby **ACQUITTED**. The cash bond posted by the accused for his provisional liberty in the amount of Twenty-Eight Thousand Pesos (Php28, 000.00) is hereby ordered to be **RELEASED**.
>
> **SO ORDERED**."

On December 14, 2023, petitioner filed a "Motion for Reconsideration (of the Decision dated November 30, 2023)."[28]

On February 21, 2024, the trial court issued an Order[29] denying for lack of merit the Motion for Reconsideration. The dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant motion is **DENIED**.
>
> **SO ORDERED**."

On May 16, 2024, petitioner filed the present Petition for Certiorari.[30]

In the Minute Resolution dated May 30, 2024, this Court ordered private respondent to file his Comment on the Petition for Certiorari, within ten (10) days from notice.[31]

On August 14, 2024, the Judicial Records Division of this Court issued a Records Verification Report stating that private respondent failed to file his Comment on the Petition for Certiorari.

Hence, in view of private respondent's failure to file comment on the Petition for Certiorari, the instant case was deemed submitted for decision on September 17, 2024.

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[27] Ibid., pp. 714-721.
[28] Ibid., pp. 725- 741.
[29] Ibid., pp. 744-746.
[30] Docket, CTA Case No. SCA-0021, pp. 5-041.
[31] Ibid., p. 103.

THE ISSUES

Petitioner raises the following grounds for the allowance of the instant petition:

1) There is no plain, speedy and adequate remedy as contemplated under Rule 65 of the 1997 Rules of Court available to petitioner. Hence, the Petition for Certiorari is the proper remedy.

2) Petitioner can file the instant petition before the Court of Tax Appeals which has jurisdiction over the petition.

3) The trial court committed grave abuse of discretion when it acquitted and dismissed the criminal case against private respondent.

4) The trial court committed grave abuse of discretion when it resolved that the petitioner's evidence is not sufficient to sustain a conviction.

THE ARGUMENTS

Petitioner states that the Petition for Certiorari is the proper remedy to assail the Decision and Resolution of the trial court; that the instant case is within the jurisdiction of this Court; that the trial court committed grave abuse of discretion when it completely disregarded the evidence presented by petitioner and the existence of the elements of the offense charged against private respondent; that petitioner was able to establish the elements of Section 255 of the Tax Code, hence, private respondent willfully violated the said provision; that private respondent committed tax evasion when he did not file his 2007 ITR; and that private respondent is civilly liable to pay the deficiency tax due arising from the violation of Section 254 and 255 of the Tax Code.

THE RULING OF THE COURT

JURISDICTION OF THE COURT

This Court has exclusive appellate jurisdiction over criminal offenses arising from violations of the NIRC of 1997, as amended, originally decided by regional trial courts, pursuant to Section 7(b)(2)(a) of Republic Act ("RA") No. 1125[32], as amended by RA No. 9282[33], to wit:

[32] An Act Creating The Court Of Tax Appeals, June 16, 1954.

[33] 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

"SEC. 7. *Jurisdiction.* — The CTA shall exercise:

xxx xxx xxx

(b) Jurisdiction over cases involving criminal offenses as herein provided:

(1) Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue and the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos ([Php]1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. x x x.

(2) **Exclusive appellate jurisdiction in criminal offenses**:

(a) **Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax cases originally decided by them, in their respective territorial jurisdiction.**"[34]

This present case, however, is not an ordinary appeal but a Petition for Certiorari. In the *City of Manila vs. Grecia-Cuerdo,* and reiterated in the case of *The Philippine American Life and General Insurance Company vs. The Secretary of Finance, et. al.*[35] it was held that:

"**the CTA now has the power of *certiorari* in cases within its appellate jurisdiction**. To elucidate:

The prevailing doctrine is that the authority to issue writs of *certiorari* involves the exercise of original jurisdiction which must be expressly conferred by the

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.

[34] *Emphasis supplied.*

[35] G.R. No. 210987, November 24, 2014, citing *City of Manila vs. Grecia- Cuerdo,* G.R. No. 175723, February 4, 2014.

Constitution or by law and cannot be implied from the mere existence of appellate jurisdiction. Thus, xxx this Court has ruled against the jurisdiction of courts or tribunals over petitions for *certiorari* on the ground that there is no law which expressly gives these tribunals such power. It must be observed, however, that xxx these rulings pertain not to regular courts but to tribunals exercising quasi-judicial powers. With respect to the Sandiganbayan, Republic Act No. 8249 now provides that the special criminal court has exclusive original jurisdiction over petitions for the issuance of the writs of *mandamus*, prohibition, *certiorari*, *habeas corpus,* injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction.

In the same manner, Section 5 (1), Article VIII of the 1987 Constitution grants power to the Supreme Court, in the exercise of its original jurisdiction, to issue writs of *certiorari*, prohibition and *mandamus.* With respect to the Court of Appeals, Section 9 (1) of Batas Pambansa Blg. 129 (BP 129) gives the appellate court, also in the exercise of its original jurisdiction, the power to issue, among others, a writ of *certiorari*, whether or not in aid of its appellate jurisdiction. As to Regional Trial Courts, the power to issue a writ of *certiorari*, in the exercise of their original jurisdiction, is provided under Section 21 of BP 129.

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

On the strength of the above constitutional provisions, it can be fairly interpreted that **<u>the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction</u> on the**

> **part of the RTC in issuing an interlocutory order <u>in cases falling within the exclusive appellate jurisdiction of the tax court</u>. It, thus, follows that the CTA, by constitutional mandate, <u>is vested with jurisdiction to issue writs of certiorari in these cases</u>.**
>
> Indeed, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total."

There is no doubt therefore that this Court has jurisdiction over this case for *Certiorari* which stemmed from the Decision of the Regional Trial Court.

TIMELINESS OF THE PETITION

Section 4, Rule 65 of the Rules of Court states:

> "SEC. 4. When and where to file Petition. — **The petition shall be filed <u>not later than sixty (60) days</u> from notice of the judgment, order or resolution.** In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion. x x x"[36]

Petitioner allegedly received the assailed Resolution denying petitioner's Motion for Reconsideration dated February 21, 2024 on March 19, 2024.[37] Thus, the Court shall start counting the 60-day period from March 19, 2024. Pursuant to the afore-quoted rule, petitioner had until May 20, 2024[38] within which to file its petition for *certiorari*.

Records show that the Petition for Certiorari was filed by registered mail on May 16, 2024, and received by the Court on May 23, 2024. Hence, the Court validly acquired jurisdiction over the case.

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[36] *Emphasis and underscoring supplied.*
[37] *Id.*, Petition for *Certiorari*, Timeliness of the Petition, par. 6, p. 3.
[38] The 60th day was on May 18, 2024, a Saturday. Hence, the Petition was filed on the next working day.

A JUDGMENT OF ACQUITTAL MAY BE ASSSAILED ONLY BY PETITION FOR CERTIORARI

The trial court dismissed the criminal cases against private respondent for failure of the prosecution to prove his guilt beyond reasonable doubt.

In our jurisdiction, the Court adheres to the finality-of-acquittal doctrine, that is, a judgment of acquittal is final and unappealable. A judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation. [39]

Section 21, Article III of the 1987 Philippine Constitution provides that "no person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by law or an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act."

In order for double jeopardy to attach, the following elements must be present: (1) a valid information sufficient in form and substance to sustain a conviction of the crime charged; (2) a court of competent jurisdiction; (3) the accused has been arraigned and had pleaded; and (4) the accused was convicted or acquitted or the case was dismissed without his express consent.[40]

Records show that all the elements for double jeopardy to attach are present in this case. There was valid Information for the crimes charged against which the RTC Branch 220 had jurisdiction and to which private respondent entered a plea of not guilty. Thereafter, a judgment of acquittal was rendered and promulgated by the trial court.

However, there are exceptions to the rule on double jeopardy. *First* is where there has been deprivation of due process and where there is a finding of mistrial, or *second*, where there has been a grave abuse of discretion under exceptional circumstances.[41]

Thus, a judgment of acquittal may be assailed only in a Petition for Certiorari under Rule 65 of the Rules of Court, which states as follows:

> "**SECTION 1. Petition for Certiorari.** – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its jurisdiction, or with

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[39] People of the Philippines v. Lino Alejandro y Pimentel, G.R. No. 223099, January 11, 2018, *citing* People of the Philippines v. Hon. Enrique C. Asis, in his capacity as Presiding Judge of the Regional Trial Court of Biliran Province, Branch 16, and Jaime Abordo, G.R. No. 173089, August 25, 2010.
[40] *Chiok vs. People, et al.,* 774 Phil. 230.
[41] *Villareal vs. Aliga,* 724 Phil. 47.

grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy or adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46."

In *People of the Philippines v. Sandiganbayan (First Division), et al.*[42], the Supreme Court defined grave abuse of discretion in this wise:

"**Grave abuse of discretion generally refers to capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.** The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or virtual refusal to perform a duty imposed by law, or to act in contemplation of law or where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. **No grave abuse of discretion may be attributed to a court simply because of its alleged misapplication of facts and evidence, and erroneous conclusions based on said evidence. *Certiorari* will issue only to correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court**."[43]

The instant Petition for *Certiorari* which seeks to nullify the assailed Decision basically assails the trial court's appreciation and evaluation of the evidence adduced by the parties. Based on the trial court's personal appreciation of the evidence received during trial, it was found that petitioner failed to prove the guilt of private respondent beyond reasonable doubt.

This Court however cannot delve into the propriety of the trial court's appreciation of the parties' evidence that led to its findings and conclusion. The averments interposed by petitioner does not seek to correct errors of jurisdiction, but to reverse the alleged mistake in the findings of the trial court. As held in the afore-cited case, **the writ of *certiorari* will issue only to correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court.**

[42] G.R. Nos. 168188-89. June 16, 2006.
[43] *Emphasis and underscoring supplied.*

In *People of the Philippines vs. Lino Alejandro y Pimentel*,[44] the Supreme Court ruled that "the only instance when double jeopardy will not attach is when the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction, such as where the prosecution was denied the opportunity to present its case or where the trial was a sham. However, while certiorari may be availed of to correct an erroneous acquittal, the petitioner in such an ordinary proceeding must clearly demonstrate that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.

In the case at bar, there was no allegation of any violation of the petitioner's right to due process or mistrial. Records show that petitioner was given an ample opportunity to present its case. It was able to present and formally offer its evidence. A plain reading of the assailed Decision show that the trial court considered petitioner's evidence, both testimonial and documentary. Petitioner's multiple witnesses were examined before the witness stand. Private respondent was granted leave to file a Demurrer to Evidence, and the prosecution was able to file his Comment/Opposition thereto. In fact, if ever there should be an averment of denial of due process, this should have been alleged by the private respondent. This is not to say that private respondent was denied due process. For several times the case was set for hearing for the presentation of private respondent's evidence but he failed to appear, thus, upon motion of the prosecution, the trial court declared private respondent to have waived his right to present evidence. Thus, there is no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the trial court.

In fine, absent any showing that there was mistrial that amounts to a denial of petitioner's right to due process or that the trial court committed an error of jurisdiction in the appreciation of the evidence presented by the parties, *certiorari* will certainly not lie.

WHEREFORE, premises considered, the Petition for *Certiorari* filed on May 16, 2024 is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[44] G.R. No. 223099, January 11, 2018, citing People vs. Laguio, Jr., 547 Phil. 296 (2007).

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest 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
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ROMAN G. DEL ROSARIO
Presiding Justice