REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

ST. PAUL HOSPITAL CAVITE, INC.,
Respondent.

CTA *EB* NO. 2880
(CTA Case No. 10815)

Members:

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

Promulgated:

AUG 15 2025 2:15

x - x

DECISION

***MODESTO-SAN PEDRO, J.*:**

Before the Court *En Banc* is a Petition for Review docketed as CTA *EB* No. 2880, assailing the Resolutions, dated October 3, 2023 ("Assailed First Resolution"), and February 2, 2024 ("Assailed Second Resolution"), promulgated by this Court's Third Division, the dispositive portions of which respectively read:

> *Resolution dated October 3, 2023:*
>
> **WHEREFORE**, we **RESOLVE** to:
>
> a. **NOTE** and **GRANT** respondent's Manifestation with Motion to Admit Answer to Interrogatories. Accordingly, the

Answer to Interrogatories, prepared by Revenue Officer Herbert M. Ordiz, is **ADMITTED**; and,

b. **GRANT** petitioner's Motion for Summary Judgment. Accordingly, the Final Decision on Disputed Assessment and the Final Assessment Notice, finding petitioner liable for deficiency Documentary Stamp Tax for Taxable Year 2010 are **CANCELLED** and **VACATED**.

Respondent, his agents, or other persons acting in his behalf are **PROHIBITED** from collecting said tax and corresponding penalties on petitioner.

SO ORDERED.

Resolution dated February 2, 2024:

WHEREFORE, respondent's Motion for Reconsideration [re: Resolution dated 03 October 2023], filed on November 6, 2023 is **DENIED**, for lack of merit. The Resolution dated October 3, 2023, is **AFFIRMED**.

SO ORDERED.

The Parties

Petitioner is the respondent in CTA Case No. 10815 entitled "*St. Paul Hospital Cavite, Inc. vs. Commissioner of Internal Revenue*". He is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR"), empowered to perform the duties of said office including, among others, the assessing and collecting of all national internal revenue taxes, fees, and charges, as provided by law.[1]

Respondent St. Paul Hospital Cavite, Inc. is the petitioner in CTA Case No. 10815 entitled "*St. Paul Hospital Cavite, Inc. vs. Commissioner of Internal Revenue*". It is a religious non-stock, non-profit institution engaged in the management of a medical hospital with address at St. Paul Hospital, Burol 2, Phase 1, Dasmariñas, Cavite.[2]

The Facts

On February 28, 2012, the BIR through Revenue District Office No. 54A - Trece Martires City issued and served Tax Verification Notice ("TVN") No. 2009 00048966 to respondent.[3]

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[1] Petition for Review, *Rollo*, p. 9.
[2] *Id.*
[3] *Id.*

Results of the investigation showed deficiency documentary stamp tax ("DST") for taxable year ("TY") 2010. Thus, a Preliminary Assessment Notice was issued on May 11, 2015, finding respondent liable for deficiency DST in the aggregate amount of ₱599,251.06.[4]

A Formal Letter of Demand/Final Assessment Notice ("FLD") with Details of Discrepancies dated June 29, 2015 was issued to respondent.[5]

On August 4, 2015, respondent filed a Protest against the FLD, attaching photocopies of promissory notes covered by the deficiency assessment, claiming that such promissory notes should not result in deficiency documentary stamp tax because they are payable to order at sight or on demand.[6]

On December 29 2017, a Final Decision on Disputed Assessment ("FDDA") was issued against respondent upholding the deficiency DST assessment in the FLD in the aggregate amount of ₱604,516.81 for TY 2010.[7]

On February 26, 2018, respondent filed its administrative appeal to the FDDA before the Office of the Commissioner of Internal Revenue ("CIR").[8]

On March 8, 2022, respondent received the Decision of the CIR.[9]

<u>Proceedings Before the Court's Third Division on Respondent's Motion for Summary Judgment</u>

On March 24, 2022, respondent filed its Petition before the Court of Tax Appeals,[10] attaching therewith, among others, the Judicial Affidavit of Sr. Mercy Corazon G. Bangot ("Sr. Bangot"), petitioner's Finance Officer.[11]

On August 9, 2022, petitioner filed his Answer to respondent's Petition.[12]

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[4] *Id.*
[5] *Id.*
[6] *Id.* at 9 to 10.
[7] *Id.* at 10.
[8] *Id.*
[9] *Id.*
[10] Docket (CTA Case No. 10815) – Vol. 1, pp. 6 to 39.
[11] *Id.* at 121 to 130.
[12] *Id.* at 290 to 302.

On August 17, 2022, respondent filed a Motion for Preferential Ruling on Invalidity of Assessment for Lack of an LOA or Motion for Summary Judgment.[13]

Thereafter, respondent filed Interrogatories (Upon Ex-Parte Motion Ad Cautelam) on January 12, 2023.[14] However, despite his Opposition filed on February 15, 2023,[15] the Court ordered petitioner or any competent officer of the BIR to respond via a sworn written answer to said interrogatories.[16]

Meanwhile, as ordered by the Court,[17] respondent filed its Consolidated Memorandum on the pending Motion for Summary Judgment and Interrogatories on March 20, 2023,[18] while petitioner filed his Memorandum (Re: Petitioner's Motion for Summary Judgment; Interrogatories; Motion for Production of Documents) on March 21, 2023.[19]

On July 26, 2023, petitioner' Revenue Officer ("RO") Herbert M. Ordiz ("RO Ordiz") filed his Answer to Interrogatories.[20]

On October 3, 2023, the Court's Third Division promulgated the Assailed First Resolution, granting respondent's Motion for Summary Judgment and thereby held the deficiency DST for TY 2010 as cancelled and vacated.

On November 6, 2023, petitioner filed its Motion for Reconsideration [re: Resolution dated 03 October 2023], with respondent's Opposition thereto filed on November 28, 2023.[21]

On February 2, 2024, the Court's Third Division promulgated the Assailed Second Resolution, denying petitioner's Motion.

Proceedings Before the Court *En Banc*

Petitioner filed its Motion for Extension of Time to File Petition for Review on March 4, 2024,[22] and the case was docketed as CTA *EB* No. 2880.

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[13] *Id.* at 310 to 322.
[14] *Id.* at 359 to 361.
[15] *Id.* at 371 to 374.
[16] Order dated June 22, 2023, *id.* at 496 to 501.
[17] Order dated February 28, 2023, *id.* at 412 to 413.
[18] *Id.* at 421 to 441.
[19] *Id.* at 442 to 448.
[20] Docket (CTA Case No. 10815) – Vol. 2, pp. 541 to 542.
[21] Assailed Second Resolution, p. 2.
[22] *Rollo*, pp. 1-4.

In the Minute Resolution, dated March 6, 2024,[23] the Court, subject to the condition that the motion for extension is filed on time, granted petitioner a final and non-extendible period of 15 days from March 2, 2024, or until March 17, 2024, within which to file his Petition for Review.

On March 18, 2024, petitioner filed its Petition for Review,[24] while respondent filed its Comment on May 17, 2024.[25]

The Assigned Errors

Petitioner raises the following issues before this Court:

I.
WHETHER OR NOT THE HONORABLE COURT ERRED IN ITS RESOLUTION WHEN IT GRANTED [RESPONDENT'S] MOTION FOR SUMMARY JUDGMENT.

II.
WHETHER OR NOT THE TAX VERIFICATION NOTICE IS EQUIVALENT TO A LETTER OF AUTHORITY.[26]

Arguments of the Parties

Petitioner's arguments:

Petitioner argues that the Court's Third Division improperly granted respondent's Motion for Summary Judgment as he was able to tender genuine issues as to the facts that: 1) respondent should not be allowed to raise issues for the first time on appeal, 2) petitioner's right to assess has not prescribed; and 3) respondent is liable for the assessed deficiency DST. Further, he insists that the matter of absence of a Letter of Authority ("LOA") requires a full blown trial, that such matter can no longer be raised on appeal, and that the absence of an LOA is inconsequential as a TVN was issued as its equivalent.

Respondent's arguments:

Respondent counters that the Court in Division correctly granted the motion for summary judgment since the Judicial Affidavit of its witness Sr. Bangot and the Answer to Interrogatories of RO Ordiz, who conducted the examination of respondent's books and records, have already established that

[23] *Id.* at 6.
[24] *Id.* at 7 to 26.
[25] *Id.* at 158-187.
[26] *Id.* at 10 to 11.

no LOA was issued in this case and that the examination of RO Ordiz was authorized only by a TVN issued by a Revenue District Officer ("RDO").

Our Ruling

The *Petition for Review* must be denied.

This Court *En Banc* emphasizes that petitioner's arguments in his Petition for Review before this Court are the exact same arguments raised in his Motion for Reconsideration [re: Resolution dated 03 October 2023] which the Court in Division already passed upon in the Assailed Second Resolution.

However, for the purpose of putting petitioner's arguments to rest, We thus rule.

The Court En Banc has jurisdiction over the Petition

Section 2(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals, as amended[27] ("*RRCTA*"), provides that the Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over cases arising from administrative agencies (*i.e.* the Bureau of Internal Revenue), thus:

> SECTION 2. *Cases Within the Jurisdiction of the Court En Banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
>
> (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
>
> (1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

In relation thereto, *Section 1, Rule 8 of RRCTA* provides that in cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division. On the other hand, *Section 3(b)* of the same provides that a party adversely affected by a decision or resolution of a Division of the Court

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[27] A.M. No. 05-11-07-CTA, November 22, 2005.

on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within 15 days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding 15 days from the expiration of the original period within which to file the petition for review.

As such, in order for this Court to acquire jurisdiction over the instant case, the petition for review by the aggrieved party must be filed before the Court *en banc* within 15 days from the date of receipt of the Court in Division's resolution on the party's timely motion for reconsideration or new trial on the decision of said Court acting in division. However, said 15-day period to file petition for review before the Court *en banc* may be extended by a period not exceeding 15 days from the expiration of the original period within which to file the petition for review.

In this case, petitioner received the Assailed Second Resolution on his timely filed Motion for Reconsideration [re: Resolution dated 03 October 2023] on February 16, 2024, giving it until March 2, 2024 to file a petition for review before this Court.

It is notable that the foregoing motion for reconsideration filed by petitioner was against the Court in Division's Assailed First Resolution, which granted respondent's Motion for Summary Judgment, and not a decision. Nevertheless, when a court, in granting a Motion for Summary Judgment, adjudicates on the merits of the case and declares categorically what the rights and obligations of the parties are and which party is in the right, such order or resolution takes the nature of a final order susceptible to appeal.[28] Verily, it has the same weight as a decision contemplated under the *RRCTA* for purposes of determining this Court's jurisdiction.

Petitioner then filed a Motion for Extension of Time to File Petition for Review on March 4, 2024,[29] in order to avail of the additional 15 days from the expiration of the original 15-day period to file the petition for review on March 17, 2024. This was granted by this Court on March 6, 2024.[30]

Petitioner filed his Petition for Review on March 18, 2024.[31] Thus, this Court acquired jurisdiction over the same.

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[28] *Invictus Food Products Corp. v. Sandpiper Spices & Condiments Corp.*, G.R. No. 268176, October 25, 2023.
[29] The following business day after March 2, 2024, which fell on a Saturday.
[30] Minute Resolution dated March 6, 2024, *Rollo*, p. 6.
[31] The following business day after March 17, 2024, which fell on a Sunday.

The Court in Division properly granted respondent's Motion for Summary Judgment

The Court's Third Division granted respondent's Motion for Summary Judgment finding that there was no genuine issue as to the fact of: *one*, the lack of an LOA, emanating from petitioner or his duly authorized representatives; and *two*, the document authorizing the BIR to examine respondent is the TVN issued by the Revenue District Officer. As such, respondent was entitled under the law to a summary judgment, nullifying the deficiency DST assessment covering TY 2010.

However, in his Petition for Review, as rehashed from his Motion for Reconsideration [re: Resolution dated 03 October 2023], petitioner insists that there is no ground to support respondent's Motion for Summary Judgment as petitioner was able to tender genuine issues as to the facts that: 1) respondent should not be allowed to raise issues for the first time on appeal, 2) petitioner's right to assess has not prescribed; and 3) respondent is liable for the assessed deficiency DST.

Further, as to the issue on lack of authority of petitioner and the consequent invalidity of the assessment, petitioner again insists that it requires a full-blown trial and cannot be disposed of by mere motion as it is the main subject of the case. Accordingly, granting the nullification of the assessment by mere motion of respondent without a full-blown trial will be a deprivation of petitioner's right to due process.

On the other hand, respondent affirms that there was no genuine issue as to the fact that, based on RO Ordiz's Answer to Interrogatories, he was armed only with a TVN issued by RDO Honorata S. Aguilar ("RDO Aguilar") when he conducted the examination and audit of respondent that resulted in a DST assessment. Accordingly, there was evidently no need for a full-blown trial for the Court's Third Division to be able to definitively ascertain such fact and in concluding that petitioner did not have any valid authority to conduct the examination of petitioner.

Respondent is correct.

Rule 35, Section 3 of the Rules of Court provides that the summary judgment sought shall be rendered forthwith if the pleadings, supporting affidavits, depositions and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

A summary judgment is a procedural device resorted to in order to avoid long, drawn out litigations and useless delays where the pleadings on file show that there are no genuine issues of fact to be tried. A "genuine issue" is such issue of fact which requires the presentation of evidence as distinguished from a sham, fictitious, contrived, or false claim.[32]

In determining the genuineness of the issues, and hence the propriety of rendering a summary judgment, the court is obliged to carefully study and appraise, not the tenor or contents of the pleadings, but the facts alleged under oath by the parties and/or their witnesses in the affidavits that they submitted with the motion and the corresponding opposition. Thus, it is held that, even if the pleadings on their face appear to raise issues, a summary judgment is proper so long as "the affidavits, depositions, and admissions presented by the moving party show that such issues are not genuine."[33]

In this case, respondent moved for summary judgment on the ground that there was no longer a genuine issue as to fact that, based on the judicial affidavit of its witness Sr. Bangot and the answer of RO Ordiz to the interrogatories, no LOA was issued to authorize the examination of respondent's books and records and the examination was authorized only by a TVN issued by an RDO.

The Court in Division granted such motion since the disposition on the matter of absence of an LOA is already sufficient to conclude the case, rendering all the other issues raised by petitioner, *i.e.* prescription of petitioner's right to assess and respondent's liability to deficiency DST, as irrelevant. As the Court in Division noted, the deficiency assessment covering TY 2010, being a product of an unlawful examination and audit by petitioner's tax agent, the cancellation and withdrawal thereof must ensue.

Neither is a full-blown trial necessary since the matter of absence of an LOA and sufficiency of a TVN to conduct examination of a taxpayer's books and records are matters of law which the Court in Division has the power to adjudicate, provided that the fact of absence of LOA is no longer disputed. This was accordingly achieved when the facts established from the judicial affidavit of Sr. Bangot and RO Ordiz's Answer to Interrogatories corroborated. As such, respondent is already entitled to a judgment as a matter of law.

Further, despite petitioner's arguments on the TVN's supposed sufficiency to grant authority to examine respondent's records, he already admitted that there was indeed no LOA issued in this case. y

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[32] *Bondoc v. Rayo*, G.R. No. 226436 (Notice), July 15, 2020.
[33] *Calubaquib v. Republic*, G.R. No.170658, June 22, 2011.

Even petitioner's argument that the absence of an LOA can no longer be raised first time on appeal bears no weight in resolving the case since the failure of [the taxpayer] to raise at the earliest opportunity, the lack of the revenue officer's authority, does not preclude the Court from considering the same because the said issue goes into the intrinsic validity of the assessment itself.[34]

As correctly observed by the Court in Division, the sole issue advanced by the parties whether respondent is liable to pay the assessed deficiency DST is contrived, rather than real. Verily, the matter of liability to pay deficiency tax assessment rests on the fact that there must first be a valid assessment. Failure to establish the validity of an assessment results to zero liability on any deficiency tax arising therefrom.

A Tax Verification Notice is not equivalent to a Letter of Authority

Petitioner insists before the Court that a TVN is equivalent to an LOA since it contains all the elements necessary to establish a contract of agency between petitioner and RO Ordiz, invoking laws on contracts and agency embodied in the Civil Code, which must be interpreted in harmony with the *National Internal Revenue Code of 1997, as amended* ("*the NIRC, as amended*").

Additionally, petitioner forwards that there is no law prohibiting the Regional Director ("RD") from delegating the power to issue a TVN, which he claims as an equivalent to an LOA, to the RDO.

Petitioner is gravely mistaken.

Indeed, the *New Civil Code* provides for the general laws on contracts and agency. However, the *NIRC, as amended,* is clear and categorical with respect to authorizing representatives who shall conduct the examination of a taxpayer's returns and determination of tax due.

It is a fundamental rule in statutory construction that between a general law and a special law, the latter prevails because a special law reveals the legislative intent more clearly than a general law does.[35] As such, the provisions of the *NIRC, as amended*, with respect to the powers to examine a taxpayer and to delegate such power, must be applied herein, without the

[34] See *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*, G.R. No. 241848, May 14, 2021.
[35] *Commissioner of Internal Revenue v. Romig*, G.R. No. 262092, October 9, 2024.

necessity of referring to the provisions on contracts and agency in the *New Civil Code.*

Section 6(A) of the NIRC, as amended, provides that the Commissioner or *his duly authorized representative* may authorize the examination of any taxpayer and the assessment of the correct amount of tax. In particular, *Section 10(c) of the same Code*, the Revenue Regional Director ("RD") shall issue Letters of Authority for the examination of taxpayers within the region.

Meanwhile, *Section 13 of the NIRC, as amended*, a Revenue Officer assigned to perform assessment functions in any district may, *pursuant to a Letter of Authority issued by the Revenue Regional Director*, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself.

As can be summarized in the foregoing provisions, it is clear that the examination of a taxpayer may only be done by petitioner or his duly authorized representative, among which are the Revenue RDs, through the issuance of an LOA; and that RDs may authorize ROs to conduct the examination by issuing such LOA.

The *NIRC, as amended*, as further echoed in numerous jurisprudence,[36] is categorical in stating that the only document which can authorize an RO to examine a taxpayer is an LOA, without the benefit of flexibility of issuing "any equivalent document".

Unless authorized by the CIR himself or by his duly authorized representative, an examination of the taxpayer cannot be undertaken. Unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority. There must be a grant of authority, *in the form of a LOA*, before any revenue officer can conduct an examination or assessment. The revenue officer so authorized must not go beyond the authority given. In the absence of such an authority, the assessment or examination is a nullity.[37]

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[36] See *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, G.R. No. 178697, November 17, 2010, *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017, *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*, G.R. No. 242670, May 10, 2021, *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*, supra., *Republic v. Robigie Corp.*, G.R. No. 260261, October 3, 2022.

[37] *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*, supra.

The LOA is the concrete manifestation of the grant of authority bestowed by the CIR or his authorized representatives to the revenue officers, pursuant to *Sections 6, 10 (c) and 13 of the NIRC, as amended.*[38]

Further, as *Section 6(A) of the NIRC, as amended*, states, only petitioner himself or representatives duly authorized by petitioner himself, may conduct the examination. It is only in this provision that the law empowers delegation of the power to examine a taxpayer, and that it is vested only with petitioner himself.

On the other hand, while the Revenue RD is so empowered to issue LOAs under *Section 10(c) of the NIRC, as amended*, nothing is further provided that he may also delegate (*i.e.* to RDOs) said power to issue LOAs in the form of TVNs. While nothing prohibits the RD to delegate the power to issue LOAs, nothing, however, empowers him to do so.

Silence on any prohibition to perform a particular action does not equate to freedom to perform such action, especially if such action would be so pervasive as to affect a party's right to due process of law. Under our tax laws and as established by jurisprudence, the issuance of an LOA to a revenue officer who will conduct the examination of a taxpayer is an essential right to due process, in such that absence of an LOA violates a taxpayer's right to due process and renders the resulting assessment void.[39]

The persuasiveness of the right to due process reaches both substantial and procedural rights, and the failure of the Commissioner of Internal Revenue to strictly comply with the requirements laid down by law and its own rules is a denial of the taxpayer's right to due process.[40]

All told, a TVN issued by an RDO is not an equivalent, and cannot be a substitute for an LOA to authorize the examination of a taxpayer. There being no LOA authorizing RO Ordiz to conduct examination on respondent's books and records, the resulting deficiency DST assessment is inescapably void.

ACCORDINGLY, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The assailed Resolutions dated October 3, 2023 and February 2, 2024 are hereby **AFFIRMED.**

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[38] *Id.*
[39] See *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, supra.
[40] *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2010.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

On leave
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice