



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

SM LAND, INC. (Formerly Shoemart, Inc.) and WATSONS PERSONAL CARE STORES, PHILS., INC.,
 Petitioners,

G.R. No. 197151

Present:

- versus -

VELASCO, JR., J., Chairperson,
 LEONARDO-DE CASTRO,*
 PERALTA,
 ABAD, and
 MENDOZA, JJ.

CITY OF MANILA, LIBERTY TOLEDO, in her official capacity, as the City Treasurer of Manila and JOSEPH SANTIAGO, in his official capacity as the Chief of License Division of the City of Manila,
 Respondents.

Promulgated:

22 October 2012

Micojean

X-----X

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision¹ and Resolution² of the Court of Tax Appeals (CTA) *En Banc*, dated December 17, 2010 and May 27, 2011, respectively, in CTA EB No. 548. The assailed Decision affirmed the July 3, 2009 Decision³ and September 30, 2009

* Designated Acting Member, per Special Order No. 1343 dated October 9, 2012.
¹ Penned by Associate Justice Amelia R. Cotoanco-Manalastas, with Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Lilianda P. Uy, Caesar A. Casanova, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino and Cielito N. Mindara-Grulla, concurring; Annex "A" to Petition, *rollo*, pp. 64-78.
² Annex "B" to Petition, *rollo*, pp. 79-84.
³ Penned by Associate Justice Juanito C. Castañeda, Jr., with Associate Justices Erlinda P. Uy and Olga Palanca-Enriquez concurring; Annex "C" to Petition, *rollo*, pp. 85-104.

Resolution⁴ of the CTA Second Division in CTA AC No. 51, while the questioned Resolution denied herein petitioners' Motion for Reconsideration.

The factual and procedural antecedents of the case are as follows:

On the strength of the provisions of Tax Ordinance Nos. 7988 and 8011, which amended Ordinance No. 7794, also known as the *Revenue Code of Manila*, herein respondent City of Manila assessed herein petitioners, together with their other sister companies, increased rates of business taxes for the year 2003 and the first to third quarters of 2004.

Petitioners and their sister companies paid the additional taxes under protest.

Subsequently, petitioners and their sister companies claimed with herein respondent City Treasurer of Manila a credit or refund of the increased business taxes which they paid for the period abovementioned. However, the City Treasurer denied their claim.

Aggrieved, petitioners and their sister companies filed with the Regional Trial Court (RTC) of Pasay City a Complaint for Refund and/or Issuance of Tax Credit of Taxes Illegally Collected.⁵

On July 10, 2007, the RTC rendered a summary judgment in favor of herein petitioners, disposing as follows:

WHEREFORE, this Court renders judgment in plaintiffs' favor and directs the defendants to grant a refund/tax credit:

- (a) To Plaintiff SM Mart, Inc. –
 - i. The amount of ₱3,543,318.97 representing overpayment of increased local business taxes under

⁴ Annex "E" to Petition, *rollo*, pp. 129-137.

⁵ Annex "H" to Petition, *rollo*, pp. 168-207.

Sections 15, 16, 17, 18, and 19, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of ₱17,519,133.16 representing payment of the Section 21 tax;

(b) To Plaintiff SM Prime Holdings, Inc. –

i. The amount of ₱667,377.21 representing overpayment of increased local business taxes under Sections 15, 16, 17, 18, and 19, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of ₱6,711,068.38 representing payment of the Section 21 tax;

(c) To Plaintiff Shoemart, Inc. –

i. The amount of ₱691,887.07 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of ₱2,954,520.24 representing payment of the Section 21 tax;

(d) To Plaintiff Star Appliances Center –

i. The amount of ₱700,974.98 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of ₱3,459,812.76 representing payment of the Section 21 tax;

(e) To Plaintiff Supervalve, Inc. –

i. The amount of ₱1,360,984.69 representing overpayment of increased local business taxes under Sections 17 and 18, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of ₱2,774,859.82 representing payment of the Section 21 tax;

(f) To Plaintiff Ace Hardware Philippines, Inc. –

i. The amount of ₱202,175.67 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of ₱988,347.16 representing payment of the Section 21 tax;

(g) To Plaintiff Watsons Personal Care Stores Philippines, Inc.–

i. The amount of ₱214,667.73 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of ₱636,857.15 representing payment of the Section 21 tax;

(h) To Plaintiff Jollimart Phils., Corp. –

i. The amount of ₱98,223.61 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and

ii. The amount of ₱296,178.13 representing payment of the Section 21 tax;

- (i) To Plaintiff Surplus Marketing Corporation –
 - i. The amount of ₱84,494.76 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and
 - ii. The amount of ₱399,942.81 representing payment of the Section 21 tax;
- (j) To Plaintiff Signature Lines –
 - i. The amount of ₱49,566.91 representing overpayment of increased local business taxes under Section 17, under the rates imposed by Ordinance Nos. 7988 and 8011, and
 - ii. The amount of ₱222,565.79 representing payment of the Section 21 tax.

No Costs.

SO ORDERED.⁶

The RTC held that Tax Ordinance Nos. 7988 and 8011, which were the bases of the City of Manila in imposing the assailed additional business taxes on petitioners and their co-plaintiffs, had already been declared null and void by this Court in the case of *Coca-Cola Bottlers Philippines, Inc. v. City of Manila*.⁷ On this ground, the RTC ruled that respondents cannot use the assailed Ordinances in imposing additional taxes on petitioners and their co-plaintiffs.

Respondents moved for reconsideration, but the RTC denied it in its Order dated December 14, 2007.

After the CTA granted their request for extension of time, herein respondents filed a petition for review with the tax court.⁸ The case was raffled to the Second Division of the said court.

On July 3, 2009, the CTA Second Division rendered its Decision, the dispositive portion of which reads, thus:

⁶ Annex “M” to Petition, *rollo*, pp. 256-258.

⁷ G.R. No. 156252, June 27, 2006, 493 SCRA 279.

⁸ Annex “F” to Petition, *rollo*, pp. 138-151.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. The appealed Order dated July 10, 2007 and Order dated December 14, 2007 of the Regional Trial Court of Pasay City, Branch 115, in Civil Case No. 05-0051-CFM are hereby **MODIFIED**. Accordingly, with the exception of Shoemart, Inc. and Watsons Personal Care Stores, Phils., petitioners are hereby **ORDERED to REFUND** the rest of the respondents, their erroneously paid local business taxes for taxable year 2003 and for the first to third quarters of taxable year 2004 in the aggregate amount of **THIRTY-NINE MILLION SEVENTY-EIGHT THOUSAND NINE HUNDRED EIGHTY-EIGHT PESOS AND 81/100 (₱39,078,988.81)**, detailed as follows:⁹

The CTA Second Division sustained the ruling of the RTC that Ordinance Nos. 7988 and 8011 are null and void. Applying the doctrine of *stare decisis*, the CTA Second Division held that the ruling in the *Coca-Cola* case cited by the RTC is applicable in the present case as both cases involve substantially the same facts and issues. The CTA Second Division, nonetheless, held that herein petitioners' claims for tax refund should be denied because of their failure to comply with the provisions of the Rules of Court requiring verification and submission of a certificate of non-forum shopping. The CTA Second Division noted that petitioners failed to attach to the complaint filed with the RTC their respective Secretary's Certificates authorizing their supposed representative, a certain Atty. Rex Enrico V. Cruz III (Atty. Cruz), to file the said complaint in their behalf. The CTA also observed that in the Verification and Certification of Non-Forum Shopping attached to the complaint, petitioner SM Land, Inc. was not included in the list of corporations represented by the person who executed the said Verification and Certification.

Petitioners filed a Motion for Partial Reconsideration.¹⁰ Attached to the said Motion was the Verification and Certification executed by Atty. Cruz as the representative of petitioner SM Land, Inc. Also attached were petitioners' Secretary's Certificates authorizing Atty. Cruz as their

⁹ *Rollo*, p. 102.

¹⁰ Annex "D" to Petition, *id.* at 105-128.

representative. The CTA Second Division, however, denied the Motion for Partial Reconsideration in its Resolution¹¹ dated September 30, 2009.

Aggrieved, petitioners filed a petition for review with the CTA *En Banc*, contending that: (1) the CTA Second Division erred in holding that the 30-day period provided by law within which to appeal decisions of the RTC to the CTA may be extended; and (2) the CTA Second Division committed error in denying herein petitioners' claim for tax refund on the ground that they violated the rules on verification and certification of non-forum shopping.

On December 17, 2010, the CTA *En Banc* rendered its assailed Decision affirming *in toto* the judgment of the CTA Second Division.

Petitioners' Motion for Reconsideration was subsequently denied by the CTA *En Banc* in its Resolution dated May 27, 2011.

Hence, the present petition anchored on the following arguments:

A. SECTION 11, REPUBLIC ACT NO. 1125, AS AMENDED BY REPUBLIC ACT NO. 9282, CLEARLY DID NOT INTEND FOR THE THIRTY (30)-DAY PERIOD TO APPEAL DECISIONS OF THE REGIONAL TRIAL COURT TO THE CTA TO BE EXTENDIBLE; AND

B. ASSUMING HYPOTHETICALLY THAT THE CTA WAS CORRECT IN GRANTING RESPONDENTS AN EXTENSION, THERE WERE STILL COMPELLING REASONS TO JUSTIFY THE RELAXATION OF THE RULES REQUIRING VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING.¹²

The Court finds the petition meritorious. Nonetheless, the Court does not fully agree with petitioners' contentions.

In the first argument raised, the Court is not persuaded by petitioners' insistence that the 30-day period to appeal decisions of the RTC to the CTA is non-extendible.

¹¹ Annex "E" to Petition, *rollo*, pp. 129-137.

¹² *Rollo*, p. 19.

Petitioners cited cases decided by this Court wherein it was held that the 30-day period within which to file an appeal with the CTA is jurisdictional and non-extendible. However, these rulings had been superseded by this Court's decision in the case of *City of Manila v. Coca-Cola Bottlers, Philippines, Inc.*,¹³ as correctly cited by the CTA *En Banc*. Suffice it to say that this Court's ruling in the said case is instructive, to wit:

x x x x

The period to appeal the decision or ruling of the RTC to the CTA via a Petition for Review is specifically governed by Section 11 of Republic Act No. 9282, and Section 3 (a), Rule 8 of the Revised Rules of the CTA.

Section 11 of Republic Act No. 9282 provides:

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.

Appeal shall be made by filing a **petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure** with the CTA within **thirty (30) days** from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. x x x. (Emphasis supplied.)

Section 3(a), Rule 8 of the Revised Rules of the CTA states:

SEC 3. *Who may appeal; period to file petition.* – (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a **Regional Trial Court** in the exercise of its original jurisdiction may appeal to the Court by **petition for review** filed within **thirty days** after receipt of a copy of such decision or ruling, or expiration of the period fixed

¹³ G.R. No. 181845, August 4, 2009, 595 SCRA 299.

by law for the Commissioner of Internal Revenue to act on the disputed assessments. x x x. (Emphasis supplied.)

It is crystal clear from the afore-quoted provisions that to appeal an adverse decision or ruling of the RTC to the CTA, the taxpayer must file a **Petition for Review** with the CTA **within 30 days** from receipt of said adverse decision or ruling of the RTC.

It is also true that the same provisions are silent as to whether such 30-day period can be extended or not. However, Section 11 of Republic Act No. 9282 does state that the Petition for Review shall be filed with the CTA **following the procedure analogous to Rule 42 of the Revised Rules of Civil Procedure**. Section 1, Rule 42 of the Revised Rules of Civil Procedure provides that the Petition for Review of an adverse judgment or final order of the RTC must be filed with the Court of Appeals within: (1) the original 15-day period from receipt of the judgment or final order to be appealed; (2) an extended period of 15 days from the lapse of the original period; and (3) only **for the most compelling reasons**, another extended period not to exceed 15 days from the lapse of the first extended period.

Following by analogy, Section 1, Rule 42 of the Revised Rules of Civil Procedure, the **30-day** original period for filing a Petition for Review with the CTA under Section 11 of Republic Act No. 9282, as implemented by Section 3 (a), Rule 8 of the Revised Rules of the CTA, may be extended for a period of **15 days**. No further extension shall be allowed thereafter, except only for the most compelling reasons, in which case the extended period shall not exceed **15 days**.

x x x¹⁴

Petitioners further contend that the Order of the CTA Second Division granting petitioners' motion for extension to file their petition for review is invalid, because at the time that the said motion was granted on March 4, 2008, this Court has not yet promulgated its decision in the above-cited *Coca-Cola* case. It was only on August 4, 2009 that this Court issued its decision in the said case and, that petitioners reason out that the same is inapplicable to the instant case as the ruling therein cannot be applied retroactively. Petitioners argue that, aside from the *Coca-Cola* case, the CTA Second Division had no clear statutory authority or jurisprudential basis in granting petitioners' motion for extension to file their petition for review.

The Court does not agree.

¹⁴ *Id.* at 313-315.

At the time that the CTA Second Division granted petitioners' motion for extension to file their petition for review, Republic Act 9282¹⁵ (RA 9282), which amended certain provisions of RA 1125,¹⁶ were already in effect,¹⁷ and it is clearly provided therein that appeals from the RTC to the CTA shall follow a procedure analogous to that provided for under Rule 42 of the Rules of Court. Rule 42 of the said Rules, in turn, provides that the court may grant an extension of fifteen (15) days within which to file the petition for review. Thus, independent of the *Coca-Cola* case, the CTA Second Division had clear statutory authority in granting petitioners' motion for extension. This Court's ruling in *Coca-Cola* is a mere clarification and affirmation of what is provided for under the provisions of RA 1125, as amended by RA 9282.

Nonetheless, the Court agrees with petitioners' contention in its second argument that there are compelling reasons in the present case which justify the relaxation of the rules on verification and certification of non-forum shopping.

It must be kept in mind that while the requirement of the certification of non-forum shopping is mandatory, nonetheless, the requirements must not be interpreted too literally and, thus, defeat the objective of preventing the undesirable practice of forum shopping.¹⁸

Time and again, this Court has held that rules of procedure are established to secure substantial justice.¹⁹ Being instruments for the speedy and efficient administration of justice, they must be used to achieve such

¹⁵ 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 of Republic Act No. 1125, as amended, otherwise known as the Law Creating the Court of Tax Appeals, and for other purposes.

¹⁶ An Act Creating the Court of Tax Appeals.

¹⁷ RA 9282 took effect on April 23, 2004.

¹⁸ *Varorient Shipping Co., Inc. v. National Labor Relations Commission*, G.R. No. 164940, November 28, 2007, 539 SCRA 131, 140.

¹⁹ *Ateneo de Naga University v. Manalo*, G.R. No. 160455, May 9, 2005, 458 SCRA 325, 336; 497 Phil. 635, 645 (2005).

end, not to derail it.²⁰ In particular, when a strict and literal application of the rules on non-forum shopping and verification will result in a patent denial of substantial justice, these may be liberally construed.²¹

In the instant case, petitioner Watsons' procedural lapse was its belated submission of a Secretary's Certificate authorizing Atty. Cruz as its representative. On the other hand, petitioner SM Land, Inc.'s infraction was not only its late submission of its Secretary's Certificate but also its failure to timely submit its verification and certification of non-forum shopping.

In a number of cases, this Court has excused the belated filing of the required verification and certification of non-forum shopping, citing that special circumstances or compelling reasons make the strict application of the rule clearly unjustified.²² This Court ruled that substantial justice and the apparent merits of the substantive aspect of the case are deemed special circumstances or compelling reasons to relax the said rule.

In fact, this Court has held that even if there was complete non-compliance with the rule on certification against forum shopping, the Court may still proceed to decide the case on the merits, pursuant to its inherent power to suspend its own rules on grounds, as stated above, of substantial justice and apparent merit of the case.²³

²⁰ *Id.*

²¹ *Id.*

²² *Heirs of the Deceased Spouses Vicente S. Arcilla and Josefa Asuncion Arcilla v. Teodoro*, G.R. No. 162886, August 11, 2008, 561 SCRA 545, 558; *Shipside Incorporated v. Court of Appeals*, G.R. No. 143377, February 20, 2001, 352 SCRA 334, 346, citing *Uy v. Land Bank of the Philippines*, G.R. No. 136100, July 24, 2000, 336 SCRA 419, 428-429; *Loyola v. Court of Appeals*, G.R. No. 117186, June 29, 1995, 245 SCRA 477, 483; and *Roadway Express, Inc. v. Court of Appeals*, G.R. No. 121488, November 21, 1996, 264 SCRA 696, 701.

²³ *Heirs of the Deceased Spouses Vicente S. Arcilla and Josefa Asuncion Arcilla v. Teodoro*, *supra* note 22, citing *De Guia v. De Guia*, G.R. No. 135384, April 4, 2001, 356 SCRA 287, 294-295 and *Estrabillo v. Department of Agrarian Reform*, G.R. No. 159674, June 30, 2006, 494 SCRA 218, 233-234.

Thus, in *Vda. de Formoso v. Philippine National Bank*,²⁴ this Court reiterated, in capsule form, the rule on non-compliance with the requirements on, or submission of defective verification and certification of non-forum shopping, to wit:

1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance with the requirement on or submission of defective certification against forum shopping.

2) As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The Court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.

3) Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.

4) **As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of “substantial compliance” or presence of “special circumstances or compelling reasons.”**

5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. **Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.**

6) Finally, the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf.²⁵ (Emphasis supplied)

In the present case, there is no dispute that Tax Ordinance Nos. 7988 and 8011 have already been declared null and void by this Court as early as

²⁴ G.R. No. 154704, June 1, 2011, 650 SCRA 35.

²⁵ *Vda. De Formoso v. Philippine National Bank*, *supra*, at 44-45, citing *Traveño v. Bobongon Banana Growers Multi-Purpose Cooperative*, G.R. No. 164205, September 3, 2009, 598 SCRA 27, 35-36 and *Altres v. Empleo*, G.R. No. 180986, December 10, 2008, 573 SCRA 583, 596-598.

2006 in the case of *Coca-Cola Bottlers Philippines, Inc. v. City of Manila*.²⁶ The nullity of the said Tax Ordinances is affirmed in the more recent case of *City of Manila v. Coca-Cola Bottlers, Philippines, Inc.*,²⁷ as cited above. Thus, to the mind of this Court, the unquestioned nullity of the above assailed Tax Ordinances upon which petitioners were previously taxed, makes petitioners' claim for tax refund clearly meritorious. In fact, petitioners' sister companies, which were their co-plaintiffs in their Complaint filed with the RTC, were granted tax refund in accordance with the judgments of the trial court, the CTA Second Division and the CTA *En Banc*. On this basis, petitioners' meritorious claims are compelling reasons to relax the rule on verification and certification of non-forum shopping.

In any case, it would bear to point out that petitioners and their co-plaintiffs in the trial court filed their claim for tax refund as a collective group, because they share a common interest and invoke a common cause of action. Hence, the signature of the representative of the other co-plaintiffs may be considered as substantial compliance with the rule on verification and certification of non-forum shopping, consistent with this Court's pronouncement that when all the petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the rules.²⁸

WHEREFORE, the instant petition is **GRANTED**. The Decision and Resolution of the Court of Tax Appeals *En Banc*, dated December 17, 2010 and May 27, 2011, respectively, in CTA EB No. 548, as well as the July 3, 2009 Decision and September 30, 2009 Resolution of the Court of Tax Appeals Second Division in CTA AC No. 51, are **REVERSED AND SET ASIDE** and the Orders of the Regional Trial Court of Pasay City,

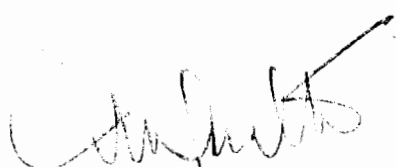
²⁶ *Supra* note 7.

²⁷ *Supra* note 13.


²⁸ See *Vda. de Formoso v. Philippine National Bank*, *supra* note 24, at 47-48; *Prince Transport, Inc. v. Garcia*, G.R. No. 167291, January 12, 2011, 639 SCRA 312, 326.

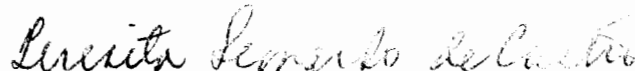
Branch 115, dated July 10, 2007 and December 14, 2007, are **REINSTATED.**

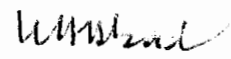
SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



TERESITA J. LEONARDG-DE CASTRO
Associate Justice


ROBERTO A. ABAD
Associate Justice


JOSE CATAL MENDOZA
Associate Justice

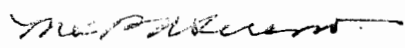
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice