Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ELIZABETH B. RAMOS, MANUEL F. TOCAO, JOSE F. TOCAO, LEYMIN CARIÑO, LONICITA MORILLA, GIL EDEJER, RODOLFO F. TOCAO, FLORENCIO O. SAPONG, VICENTE G. MAGDADARO, HEIRS OF OSMUNDO N. TOCAO, HEIRS OF MAXIMO CABONITA, HEIRS OF EVARISTO GUARIN, HEIRS OF GENARO ALCANTARA, HEIRS OF GENOVEVA SARONA, HEIRS OF LEO CABALLERO, HEIRS OF GAUDIOSO LASCUÑA, HEIRS OF TOMAS F. TOCAO, HEIRS OF TEODOLFO N. TOCAO, HEIRS OF FIDELINA C. FERENAL, HEIRS OF FELICISIMO AQUINO, HEIRS OF ISAAC GEMPEROA, HEIRS OF EUSTAQUIO CELEN, HEIRS OF JUAN RESGONIA, HEIRS OF DIOSDADO FEROLIN, HEIRS OF DIONESIO MORILLA, HEIRS OF DOMINADOR MANINGO, HEIRS OF CRISTOBAL JABILLO, HEIRS OF CELSO BUCAYONG, HEIRS OF QUINTIN NORO, all represented by their Attorney-in-Fact KORONADO B. APUZEN,
Petitioners,

- versus -

G.R. No. 192112

Present:

PERALTA, *C.J., Chairperson,*
CAGUIOA,
J. REYES, JR.,
LAZARO-JAVIER,*and*
LOPEZ, *JJ.*

Promulgated:
AUG 19 2020

NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP), QUEEN ROSE T. CABIGAS, MEL ADRIAN T. CABIGAS, IRISH JOY T. CABIGAS, DYANNE GRACES T. CABIGAS, represented by their mother LEA T. CABIGAS; IRANN PAUL S. TENORIO, NOREEN S. TENORIO, PRINCE JOHN S. TENORIO, represented by their parents NELMAR B. TENORIO and NORABEL S. TENORIO; JOAN MAE C. BUMA-AT, represented by her parents, JUN ANTHONY BUMA-AT; RONEL B. REGIDOR, GLENN S. ADLAWAN; REGINA B. PATRICIO, and BRIANIE T. PASANDALAN,

Respondents.

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DECISION

REYES, J. JR., *J.*:

The Court resolves this Petition for *Certiorari* and *Prohibition* with Prayer for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction (WPI), imputing grave abuse of discretion on the part of the National Commission of Indigenous Peoples (NCIP) in issuing its Decision[1] dated February 18, 2010 in NCIP Case No. 002-2009 (RXI-0020-09), entitled *Queen Rose T. Cabigas, et al. v. Maximo Estita, et al.* Said Decision reversed and set aside the Decision dated July 17, 2009 of the Regional Hearing Officer (RHO)-Region XI which dismissed the complaint for Injunction with Very Urgent Prayer for the Issuance of a TRO and/or WPI filed by herein respondents for forum-shopping and lack of jurisdiction.

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[1] The Decision was signed by Presiding Commissioner Noel K. Felongco, and Commissioners Rizalino G. Segundo, Miguel Imbing Sia Apostol, Rolando M. Rivera, and Jannette Serrano-Reisland. Commissioner Felecito L. Masagnay voluntarily inhibited himself while Commissioner Eugenio A. Insigne took no part; *rollo*, pp. 38-54.

Factual Antecedents

Subject of the present controversy is a land located at Malalag, Davao del Sur. On October 12, 2003, Bae Lolita Buma-at Tenorio (Bae Tenorio), filed with the NCIP an application for the issuance of a Certificate of Ancestral Land Title (CALT) over the subject land as ancestral land of her grandparents Datu Egalan and Princess Gubayan.[2] On November 12, 2004, the NCIP issued CALT No. R11-MAL-1104-000045 in favor of the Egalan-Gubayan clan, covering 845.5278 hectares. An amended CALT was later issued to exclude existing property rights from the coverage of any issued CALT pursuant to Section 56 of Republic Act (R.A.) No. 8371.[3] On September 22, 2005, the Egalan-Gubayan clan was issued CALT No. R11-MAL-0905-000049 covering the reduced area of 701.1459 hectares and later reduced further to 645 hectares.[4]

Previous to this, or in the 1920s, the 716 hectares of land covered by the aforementioned CALT was the subject of a lease in favor of Orval Hughes (Hughes). After Hughes' death, his heirs filed individual sales application of the leased land, which was opposed before the Office of the President (OP) by a group of 133 persons. On August 20, 1957, the OP, in an Amended Decision, awarded 399 hectares to the 133 oppositors, while the remaining 317 hectares were to be divided among the Hughes heirs. After said Amended Decision became final and executory, the Hughes heirs instituted various actions in different courts to challenge the same or to delay its enforcement, with the fifth action becoming the subject of the Court's ruling in G.R. No. L-62664 *(Minister of Natural Resources v. Heirs of Orval Hughes)* promulgated on November 12, 1987, which ruled that the Hughes heirs were guilty of forum shopping.

The petitioners in the present case are among the 133 beneficiaries or the legitimate heirs of the said 133 beneficiaries of the 399 hectares of land awarded under the 1957 Amended Decision.

On the other hand, the 317 hectares awarded to the Hughes heirs became the subject of another dispute when Maximo Estita (Estita), et al., members of the Davao Del Sur Farmers Association (DASURFA) who claimed to be tenants of the Hughes heirs, filed a case for forcible entry, reinstatement, nullification of affidavits of quitclaims, relinquishment, waiver and any other documents on disposition of lands against, among others, the Hughes heirs, and Lapanday and/or L.S. Ventures, Inc. (Lapanday), before the Provincial Agrarian Reform Adjudication Board (PARAD) of Digos, Davao del Sur. The case eventually also reached the Court, docketed as G.R. No. 162109 (*Lapanday Agricultural & Development Corp. v. Estita*). In a Decision dated January 21, 2005, the Court denied Lapanday's petition for review on *certiorari* and upheld the

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2 NCIP Decision dated February 18, 2010; id. at 39.

3 Also known as the Indigenous People's Rights Act (IPRA) of 1997.

4 NCIP Decision dated February 18, 2010, supra note 2.

jurisdiction of the Department of Agrarian Reform (DAR) over the 317 hectares of land owned by the Hughes heirs.

As a result of the denial of Lapanday's petition, the Court affirmed the Court of Appeals (CA), which in turn affirmed the Department of Agrarian Reform Adjudication Board's (DARAB) ruling in DARAB Case No. 8117 which ordered, among others: (1) the Hughes heirs to vacate the premises of the 399 hectares awarded to the 133 awardees and turn over the peaceful possession thereof to the said 133 awardees or their heirs; and (2) Lapanday and the Hughes heirs to restore Estita, et al., to their respective farm lots within the 317 hectares owned by the Hughes heirs. After the promulgation of the said Decision, the Heirs of Egalan-Gubayan clan filed before the Court a Motion for Leave to Admit Attached Complaint/Comment-in-Intervention in said case but the motion was denied for late filing.[5]

The present controversy arose when, on December 19, 2008, Atty. Roland Manalaysay, OIC-Executive Director of the DARAB Secretariat, issued a Writ of Execution in DARAB Case No. 8117. Pursuant to this Writ, DARAB Sheriff Buenaventura issued a Notice to Vacate Premises commanding the Heirs of Egalan-Gubayan, and all agents, representatives, assigns, and all other persons acting in their behalf to do the following, to wit:

> x x x to VACATE, within FIFTEEN (15) calendar days, the ENTIRE premises of the 399 hectares pertaining to the 133 awardees who were identified in the Order of the Natural Resources Minister dated September 17, 1981...
>
> x x x to VACATE, within FIFTEEN (15) calendar days, the ENTIRE premises of the 317 hectares pertaining to MAXIMO ESTITA, ET. ALS. [sic], and to ALL the MEMBERS of the DAVAO DEL SUR FARMERS ASSOCIATION (DASURFA) and now MALALAG UNITED FARMERS MULTI-PURPOSE COOPERATIVE (MUFMPC) x x x.[6]

On February 20, 2009, the private respondents, then minors who are members of the Egalan-Gubayan clan of the Tagacaolo tribe of Malalag, Davao del Sur, filed a case for Injunction with Very Urgent Prayer for the Issuance of a TRO and/or WPI before the NCIP-RHO in order to enjoin the implementation of the Writ of Execution and Notice to Vacate issued by the DARAB, in representation of their generation and future generations.

Prior to the present controversy, the dispute over the land claimed by both petitioners and respondents also spawned other cases, as follows:

(1) On January 24, 2006, the Heirs of Egalan-Gubayan clan filed before the Regional Trial Court (RTC) of Digos City, Davao del Sur, for Quieting of Title, Injunction/Prohibition, Specific Performance, Recognition

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5 Id. at 40.
6 Id. at 41.

of Ownership, Accounting, Damages, Attorney's Fees, with Very Urgent Prayer for Preliminary Injunction and Temporary Restraining Order (*Civil Case No. 4680*) against Estita, et al.[7] On November 17, 2006, the RTC issued a Cease and Desist Order which directed the parties to refrain from doing acts which may tend to disturb the peace and tranquility of the area subject of the case. On March 26, 2007, the same RTC directed all defendants to refrain from further acting on the claims of the parties in the case, including the installation of any persons in the subject area claimed as ancestral land of the plaintiffs and confirmed by the NCIP to be so.[8]

(2) On November 15, 2006, the NCIP, through Commissioner Felecito L. Masagnay (Commissioner Masagnay) filed with the CA a petition for prohibition, mandamus and injunction against the DAR/DARAB (*CA-G.R. SP. No. 01377*).[9] Said petition sought to prohibit the DAR/DARAB from exercising its jurisdiction over the ancestral land of the Heirs of Egalan-Gubayan clan and to comply with Section 52(i)[10] of the IPRA.

(3) On July 31, 2007, the Heirs of Egalan-Gubayan clan filed another case (*Civil Case No. 4818*) before the RTC of Digos City for the declaration of nullity of the Order dated July 31, 2007 of then DENR Secretary Angelo T. Reyes.[11] The assailed Order recalled the Memorandum dated November 5, 2004 of former DENR Secretary Michael T. Defensor which ordered the DENR to cease and desist from acting further on the claims of the 133 claimants to the 399 hectares on account of the Resolution[12] of the NCIP dated October 5, 2004, declaring the 845 hectares of land as ancestral land of the Heirs of Egalan-Gubayan clan.

Proceedings before the NCIP

On February 24, 2009, the RHO issued a TRO upon finding the complaint to be proper in form and substance. Subsequently, however, on July 17, 2009, the RHO dismissed the case on the ground of forum-shopping and on the ground that the NCIP had relinquished its jurisdiction over the controversy when it filed before the CA the petition for prohibition,

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7 Id. at 40.
8 Id.
9 Id.
10 SEC. 52. *Delineation Process.* — The identification and delineation of ancestral domains shall be done in accordance with the following procedures:

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i) *Turnover of Areas Within Ancestral Domains Managed by Other Government Agencies.* — The Chairperson of the NCIP shall certify that the area covered is an ancestral domain. The secretaries of the Department of Agrarian Reform, Department of Environment and Natural Resources, Department of the Interior and Local Government, and Department of Justice, the Commissioner of the National Development Corporation, and any other government agency claiming jurisdiction over the area shall be notified thereof. Such notification shall terminate any legal basis for the jurisdiction previously claimed;

11 NCIP Decision dated February 18, 2010, supra note 2, at 40.
12 *Rollo*, pp. 748-767.

mandamus and injunction against the DAR/DARAB in CA-G.R. SP. No. 01377.[13]

Respondents then filed an appeal before the NCIP on July 22, 2009, with motion for the issuance of a TRO and WPI. On July 24, 2009, the NCIP issued a 20-day TRO.[14] On August 14, 2009, the NCIP resolved to issue a WPI upon the posting of bond in the amount of ₱500,000.00, which the respondents filed in cash.[15]

On January 21, 2010, the NCIP received a Manifestation from Commissioner Masagnay voluntarily inhibiting himself from further participation in the proceedings. Said inhibition was noted by the NCIP in its Order dated January 22, 2010.[16]

In its assailed Decision dated February 18, 2010, the NCIP reversed the RHO and ruled as follows:

(1) Respondents did not commit forum-shopping as there is no identity of parties in the present case and Civil Case No. 4680. Respondents, as minors, should be accorded separate personality to sue distinct and separate from their elders, similar to the petitioners in *Oposa v. Factoran, Jr.*;[17]

(2) The passage of the IPRA and the subsequent confirmation by the NCIP of the native title of the Heirs of Egalan-Gubayan through the issuance of the CALT are supervening events which rendered the execution of the award in favor of the 133 awardees unenforceable;[18]

(3) The NCIP cannot be said to have been ousted of its jurisdiction by filing the injunction case against the DAR/DARAB before the CA as it only performed its public function to compel the DAR to comply with Section 52(i) of the IPRA and require the latter to terminate its jurisdiction over the ancestral land of the Heirs of Egalan-Gubayan;[19]

(4) Respondents cannot be bound by the ruling in G.R. No. 162109 as they were not parties therein. The said ruling also did not confer vested rights upon petitioners over the land in question as it merely gave them preferential right over other applicants, subject to compliance with the requirements of possession and occupation and subsequent filing of their respective applications with the Bureau of Lands in accordance with the Public Land Act;[20]

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13 NCIP Decision dated February 18, 2010, supra note 2, at 41.
14 Id.
15 Id.
16 Id. at 41-42.
17 Id. at 43-44.
18 Id. at 46-47.
19 Id. at 47.
20 Id. at 47-49.

(5) Considering that the NCIP has jurisdiction over the case, it has the power to issue an injunction under Section 69(d)[21] of the IPRA. Section 55 of R.A. No. 6657,[22] or the Comprehensive Agrarian Reform Law (CARL) of 1988, which prohibits courts in the Philippines from issuing any restraining order or writ of preliminary injunction against the PARC or any of its duly authorized or designated agencies, does not apply since the present case is not a case, dispute or controversy arising from, necessary to, or in connection with the application, implementation, enforcement, or interpretation of the CARL and other pertinent laws on agrarian reform.[23]

The dispositive portion of the Decision reads:

> WHEREFORE, IN VIEW OF THE FOREGOING, this Commission hereby renders judgment reversing and setting aside the Decision of NCIP-RHO RXI dated [July 17, 2009] and enters a new one declaring that there is no forum-shopping and that this Commission has jurisdiction over the petition and hereby issues a permanent injunction making the preliminary injunction permanent thereby forestalling permanently the undue and unlawful implementation of the DARAB Provincial Sheriffs Notice To Vacate Premises dated 23 January 2009 and/or of the DARAB Secretariat's Writ of Execution dated 19 December 2008 and such other writs that maybe issued by DAR or DENR in the future. It is likewise ordered that private respondents and the DAR/DARAB, DENR, their agents, representatives, assigns and all other persons acting in their behalf to cease and desist permanently from and all acts, preparatory and/or necessary to the implementation of the stated Notice and Writ and/or such other writs that maybe issued in the future. Finally, it is ordered that the [petitioners] to completely and perpetually cease and desist from actions that are or may be interpreted as prejudicial to or impairing the rights of the ICCs/IPs within their ancestral land and their peaceful and continuing ownership of their ancestral land, such as but not limited to entering into the land without the prior consent of the ICCs/IPs concerned, erecting of structure thereon and harvesting tree, or fruit found inside the ancestral land.
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> SO ORDERED.[24]

Petitioners then sought direct recourse before the Court through this present Petition for *Certiorari* and *Prohibition*, imputing grave abuse of discretion on the part of respondent NCIP in issuing the assailed Decision, to wit:

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21 SEC. 69. *Quasi-Judicial Powers of the NCIP.* — The NCIP shall have the power and authority:
x x x x
d) To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic activity.

22 SEC. 55. *No Restraining Order or Preliminary Injunction.* — No court in the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the [Presidential Agrarian Reform Council] PARC or any of its duly authorized or designated agencies in any case, dispute or controversy arising from, necessary to, or in connection with the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform.

23 NCIP Decision dated February 18, 2010, supra note 2, at 51.

24 Id. at 54-55.

A.) THE NCIP COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT RESPONDENTS ARE NOT GUILTY OF DELIBERATE FORUM SHOPPING;

B.) THE NCIP ACTED BEYOND ITS JURISDICTION WHEN IT RULED THAT THE IPRA OF 1997 IS A SUPERVENING EVENT WHICH RENDERED INEFFECTIVE THE SUPREME COURT DECISION IN MINISTER OF NATURAL RESOURCES AND DIRECTOR OF LANDS v. HEIRS OF ORVAL HUGHES;

C.) THE NCIP ACTED WITH MANIFEST ILLEGALITY WHEN IT MAINTAINED IT HAS JURISDICTION TO TAKE COGNIZANCE OF THE CASE DESPITE BEING A PARTY-MOVANT TO ANOTHER CASE INVOLVING THE SAME ISSUES, PARTIES AND SUBJECT MATTER BEFORE THE COURT OF APPEALS;

D.) THE NCIP ACTED IN EXCESS OF ITS JURISDICTION WHEN IT PRONOUNCED THAT RESPONDENTS ARE ENTITLED TO AN INJUNCTIVE RELIEF.[25]

Aside from the reversal and setting aside of the assailed NCIP Decision, petitioners pray that the Court issue an order mandating lower courts and tribunals to desist from entertaining actions, to disallow future litigations, or to dismiss future actions affecting the implementation of the ruling in G.R. No. L-62664, which petitioners invoke as basis for their alleged vested right over the 399 hectares of land awarded under the 1957 Amended Decision.

In its Comment,[26] public respondent NCIP prays for the dismissal of the petition, arguing that the present petition was prematurely filed since petitioners did not file a MR, and the proper remedy against the assailed Decision is to file a petition for review to the CA, which was lost when petitioners failed to pay the full docket fees as required by the Rules. It also reiterates the following arguments: (1) that there is no forum-shopping as there is no identity of parties in the present case and Civil Case No. 4680, since the private respondents, as minors, should be accorded separate personality to sue distinct and separate from their elders; (2) the passage of the IPRA and the subsequent confirmation by the NCIP of the native title of the Heirs of Egalan-Gubayan through the issuance of the CALT are supervening events which rendered the execution of the award in favor of the 133 awardees unenforceable; (3) the NCIP cannot be said to have been ousted of its jurisdiction by filing the injunction case against the DAR/DARAB before the CA as it only performed its public function to compel the DAR to comply with Section 52(i) of R.A. No. 8371 and require the latter to terminate its jurisdiction over the ancestral land of the Heirs of Egalan-Gubayan; and (4) respondents are entitled to injunctive relief granted by the NCIP.

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25 *Rollo*, pp. 13-14.
26 Id. at 369-395.

Private respondents filed two separate Comments, one through Atty. Rodolfo F. Valmoria, Jr.,[27] and another through Brianie T. Pasandalan,[28] forwarding arguments similar to those of the NCIP in support of their prayer for the dismissal of the present petition.

Petitioners, traversing the comments,[29] reiterate their arguments regarding propriety of direct resort before the Court through a petition for *certiorari* and that respondents are guilty of forum-shopping. They also contend that the ruling in G.R. No. L-62664 should bind respondents, claiming that Dalia/Victorina, Bae Tenorio's mother, is also an heir of Princess Gubayan like the Hughes heirs.

The Court's Ruling

The Court partly GRANTS the petition and SETS ASIDE the assailed NCIP Decision.

Preliminary Considerations

At the outset, the Court notes that petitioners filed a petition for *certiorari* and prohibition despite the availability of an appeal. *Second*, petitioners filed the present petition without first filing a motion for reconsideration of the assailed NCIP Decision. Lastly, petitioners filed the present petition directly before the Court instead of the CA in violation of the doctrine of hierarchy of courts. In the present case, petitioners acknowledge that decisions of the NCIP are appealable to the CA *via* a petition for review, citing Section 3, Rule IX of NCIP Administrative Order No. 01-98, or the Implementing Rules and Regulations of the IPRA, as well as Rule 43 of the Rules of Court. Nevertheless, to justify their resort to a petition for *certiorari* and prohibition despite the availability of an appeal, petitioners cite *Fortich v. Corona*[30] and maintain that similar to the said case, the NCIP's decision is a patent nullity and issued beyond its jurisdiction or with grave abuse of discretion as it reversed the final and executory decision in G.R. No. L-62664.[31]

Section 67 of the IPRA provides that "[d]ecisions of the NCIP shall be appealable to the CA by way of a petition for review." In *Unduran v. Aberasturi,*[32] the Court, citing said Section 67, had occasion to state that such petition for review shall be filed before the CA under Rule 43.[33] Under Section 1, Rule 65, one of the requisites before a petition for *certiorari* may be filed, is the absence of an appeal or any plain, speedy, and adequate remedy in the ordinary course of law, to wit:

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27 Id. at 474-485.
28 Id. at 396-430.
29 Consolidated Traverse to Respondents' Comment; id. at 505-515.
30 352 Phil. 461 (1998).
31 *Rollo*, p. 8.
32 808 Phil. 795 (2017).
33 Id. at 818.

> SEC. 1. *Petition for certiorari*.- When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, **and there is no appeal, or any plain, speedy, and 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 be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. x x x x (Emphasis supplied)

In *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*,[34] we had the occasion to state that a petition for *certiorari*, not being a substitute for a lost appeal, cannot prosper if an appeal is available even when the ground is grave abuse of discretion, to wit:

> Where appeal is available to the aggrieved party, the action for *certiorari* will not be entertained. Remedies of appeal (including petitions for review) and *certiorari* are mutually exclusive, not alternative or successive. Hence, *certiorari* is not and cannot be a substitute for an appeal, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse. One of the requisites of *certiorari* is that there be no available appeal or any plain, speedy and adequate remedy. Where an appeal is available, *certiorari* will not prosper, even if the ground therefor is grave abuse of discretion.[35](Citations omitted)

Also, as a general rule, *certiorari* will not lie unless a motion for reconsideration (MR) was first filed before the respondent court, tribunal, or officer in order to allow it to correct the alleged errors;[36] as unless such motion is considered a plain and adequate remedy expressly available under the law.[37]

Finally, although the Court, the CA, and the RTCs have concurrent original jurisdiction over petitions for *certiorari,* prohibition, *mandamus, quo warranto,* and *habeas corpus,* parties are directed, as a rule, to file their petitions before the lower-ranked court.[38] As explained in *People v. Cuaresma*:[39]

> This Court's original jurisdiction to issue writs of *certiorari* (as well as prohibition, *mandamus, quo warranto, habeas corpus* and injunction) is not exclusive. It is shared by this Court with Regional Trial Courts (formerly Courts of First Instance), which may issue the writ, enforceable in any part of their respective regions. It is also shared by this Court, and by the Regional Trial Court, with the Court of Appeals (formerly, Intermediate Appellate Court), although prior to the effectivity of *Batas*

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34 479 Phil. 768 (2004).
35 Id. at 782-783
36 Id. at 782.
37 Id.
38 *Gios Samar, Inc. v. Department of Transportation and Communications*, G.R. No. 217158, March 12, 2019.
39 254 Phil. 418 (1989).

> *Pambansa Bilang* 129 on August 14, 1981, the latter's competence to issue the extraordinary writs was restricted to those "in aid of its appellate jurisdiction." This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. Indeed, the removal of the restriction on the jurisdiction of the Court of Appeals in this regard, *supra* — resulting from the deletion of the qualifying phrase, "in aid of its appellate jurisdiction" — was evidently intended precisely to relieve this Court *pro tanto* of the burden of dealing with applications for the extraordinary writs which, but for the expansion of the Appellate Court's corresponding jurisdiction, would have had to be filed with it.[40] (Citations omitted)

Direct resort to the Court in violation of the doctrine of hierarchy of courts is a sufficient cause for dismissal of the complaint.[41] While it is true that in *The Diocese of Bacolod v. Commission on Elections*,[42] we have recognized exceptions[43] to this doctrine, we have clarified in *Gios Samar, Inc. v. Department of Transportation and Communications*[44] that it is not the presence of one or more of the so-called "special and important reasons," but the *nature* of the question raised by the parties in those "exceptions," which is "the decisive factor considered by the Court in deciding whether to permit the invocation, at the first instance, of its original jurisdiction over the issuance of extraordinary writs."[45]

Despite these procedural infirmities, the Court deems it prudent not to dismiss the petition on account of such lapses, and instead resolve the case

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40 Id. at 426-427.

41 *Gios Samar, Inc. v. Department of Transportation and Communications*, supra note 38.

42 751 Phil. 301 (2015).

43 (1) when there are genuine issues of constitutionality that must be addressed at the most immediate time;
(2) when the issues involved are of transcendental importance;
(3) cases of first impression;
(4) the constitutional issues raised are better decided by the Court;
(5) exigency in certain situations;
(6) the filed petition reviews the act of a constitutional organ;
(7) when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law that could free them from the injurious effects of respondents' acts in violation of their right to freedom of expression; [and]
(8) the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy."

44 *Gios Samar, Inc. v. Department of Transportation and Communications*, supra note 38.

45 Id.

on the merits in order to write finis to the controversy. In any case, the Court finds that in resolving this petition, the question of whether the NCIP committed grave abuse of discretion in affording injunctive relief in favor of the private respondents and restraining the implementation of the Notice to Vacate issued by the DARAB, is one of law which the Court may properly resolve. To our mind, resolving such question does not require us to review the truth or falsity of alleged facts.[46] Rather, the present case presents to us a question of law since the doubt arises as to what the law is on a certain set of facts[47] and the determination of such does not require us to review any evidence presented.[48]

We now proceed to discuss the issues raised by the parties, particularly on the issue of the NCIP's jurisdiction. In doing so, it must be emphasized that the ruling in the present petition is only limited to the injunction issued by the NCIP in its assailed Decision. Our ruling here does not in any way determine who between the parties ultimately has a better right over the land in dispute.

The NCIP Has No Jurisdiction Over the Action Filed by the Private Respondents

The Court first resolves the question of the NCIP's jurisdiction since a court or an adjudicative body, such as the NCIP in this case, should acquire jurisdiction over the subject matter in order for it to have authority to dispose of the case on the merits,[49] and considering that any act performed by a court or tribunal without jurisdiction shall be null and void, and without any binding legal effects.[50]

Petitioners assert that the NCIP had no jurisdiction over the case when it filed the petition in CA-G.R. SP. No. 01377 against the DAR and DARAB in order to compel the latter to comply with Section 52(i) of R.A. No. 8371. The respondents, on the other hand, maintain that the filing of said case before the CA did not oust the NCIP of its jurisdiction over the dispute, as the said agency was merely fulfilling its mandate under the IPRA. It appears from the records that the CA has rendered a Decision[51] dated March 31, 2012 in CA-G.R. SP. No. 01377 granting NCIP's petition for prohibition, the *fallo* of which reads:

> ACCORDINGLY, the petition for prohibition is GRANTED. The DARAB's Amended Order with Writ of Execution dated October 3, 2006 and the DAR Sheriff's Notice to Vacate Premises dated October 30, 2006

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46 There is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. *See Century Iron Works, Inc. v. Bañas,* 711 Phil. 576, 585-586 (2013).

47 Id. at 585.

48 Id. at 586.

49 *See Bilag v. Ay-ay*, 809 Phil. 236 (2017).

50 Id. at 243.

51 Penned by Associate Justice Romulo V. Borja, with Associate Justices Pamela Ann Abella Maxino and Zenaida Galapate-Laguilles, concurring; *rollo*, pp. 932-970.

> are SET ASIDE [insofar] as the 701.1459 hectare ancestral land covered by CALT No. R11-MAL-0905-000049 is concerned. The DARAB and the DAR Sheriff are ordered to desist from further implementing the writ of execution against the Heirs of Egalan-Gubayan Clan.
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> SO ORDERED.[52]

In ruling in the NCIP's favor, the CA in CA-G.R. SP. No. 01377 ruled that the issuance of CALT No. R11-MAL-0905-000049 constitutes a supervening event, which rendered the execution of the Decision in G.R. No. 162109, unjust and impractical insofar as the dispossession of the Egalan-Gubayan clan is concerned, as the issuance of said CALT evidences the official recognition of the ancestral land of the Egalan-Gubayan clan, which they owned since time immemorial and is entitled to its possession. Furthermore, even assuming that the issuance of said CALT is not a supervening event insofar as the execution of G.R. No. 162109 is concerned, the Egayan-Gubayan clan cannot be prejudiced by said Decision as they were not parties thereto, the action involved therein being one for delivery of possession from one person to another, thus *in personam*.

Without passing upon the correctness of the ruling in CA-G.R. SP. No. 01377, we hold that the NCIP has no jurisdiction over the present case but not on the basis of the argument forwarded by petitioners. Regardless of the action taken by the NCIP as petitioner in CA-G.R. SP. No. 01377, the Court is guided by the following principle in determining the jurisdiction of the NCIP:

> [J]urisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the ones to be consulted. Once vested by the allegations in the complaint, jurisdiction also remains vested irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.[53] (Citation omitted)

In the Court's Decision dated October 20, 2015, in *Unduran v. Aberasturi*,[54] it was held that the jurisdiction of the NCIP under Section 66[55] of the IPRA over claims and disputes involving rights of indigenous cultural communities (ICCs) and indigenous peoples (IPs) arise only when such

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52 Id. at 970.

53 *Unduran v. Aberasturi*, 771 Phil. 536, 562 (2015).

54 Id.

55 SEC. 66. *Jurisdiction of the NCIP.* — The NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs: Provided, however, That no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP.

claims or disputes are between or among parties who belong to the same ICC/IP. In said Decision, we explained:

> A careful review of Section 66 shows that the NCIP shall have jurisdiction over claims and disputes involving rights of ICCs/IPs only when they arise between or among parties belonging to the same ICC/IP. This can be gathered from the qualifying provision that "no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP."
>
> The qualifying provision requires two conditions before such disputes may be brought before the NCIP, namely: (1) exhaustion of remedies under customary laws of the parties, and (2) compliance with condition precedent through the said certification by the Council of Elders/Leaders. This is in recognition of the rights of ICCs/IPs to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities, as may be compatible with the national legal system and with internationally recognized human rights.
>
> Section 3 (f) of the IPRA, defines customary laws as a body of written and/or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted and observed by respective ICCs/IPs. From this restrictive definition, it can be gleaned that it is only when both parties to a case belong to the same ICC/IP that the abovesaid two conditions can be complied with. If the parties to a case belong to different ICCs/IPs which are recognized to have their own separate and distinct customary laws and Council of Elders/Leaders, they will fail to meet the abovesaid two conditions. The same holds true if one of such parties was a non-ICC/IP member who is neither bound by customary laws as contemplated by the IPRA nor governed by such council. Indeed, it would be violative of the principles of fair play and due process for those parties who do not belong to the same ICC/IP to be subjected to its customary laws and Council of Elders/Leaders.
>
> Therefore, pursuant to Section 66 of the IPRA, the NCIP shall have jurisdiction over claims and disputes involving rights of ICCs/IPs only when they arise between or among parties belonging to the same ICC/IP. When such claims and disputes arise between or among parties who do not belong to the same ICC/IP, *i.e.*, parties belonging to different ICC/IPs or where one of the parties is a non-ICC/IP, the case shall fall under the jurisdiction of the proper Courts of Justice, instead of the NCIP.[56] x x x

In the subsequent Resolution dated April 18, 2017 in *Unduran*,[57] the Court also held that the NCIP's jurisdiction under Section 66 is limited, but not concurrent with the RTCs,[58] and has primary jurisdiction

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56 *Unduran v. Aberasturi,* supra note 53, at 568-569.

57 808 Phil. 795 (2017).

58 Id. at 813-814.

under Sections 52(h)[59] and 53,[60] in relation to Section 62[61] of the IPRA, and Section 54[62] thereof.[63] As to the latter, it was also emphasized that the NCIP has primary jurisdiction over cases where one of the parties is not a ICC/IP or the parties are from different ICCs/IP under the following provisions of the IPRA:

(1) Section 52(h) of the IPRA anent the power of the NCIP Ancestral Domain Office (ADO) to deny application for Certificate of Ancestral Domain Titles (CADTs), in relation to Section 62, regarding the power of the NCIP to hear and decide unresolved adverse claims;

(2) Section 53 on the NCIP-ADO's power to deny applications for Certificate CALTs and on the NCIP's power to grant meritorious claims and resolve conflicting claims; and

(3) Section 54 as to the power of the NCIP to resolve fraudulent claims over ancestral domains and lands.

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59 SEC. 52. *Delineation Process.* — The identification and delineation of ancestral domains shall be done in accordance with the following procedures:
x x x x
h) Endorsement to NCIP. — Within fifteen (15) days from publication, and of the inspection process, the Ancestral Domains Office shall prepare a report to the NCIP endorsing a favorable action upon a claim that is deemed to have sufficient proof. However, if the proof is deemed insufficient, the Ancestral Domains Office shall require the submission of additional evidence: Provided, That the Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification: Provided, further, That in case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP: Provided, furthermore, That in cases where there are conflicting claims among ICCs/IPs on the boundaries of ancestral domain claims, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to the section below.

60 SEC. 53. *Identification, Delineation and Certification of Ancestral Lands.* —
x x x x
e) Upon receipt of the applications for delineation and recognition of ancestral land claims, the Ancestral Domains Office shall cause the publication of the application and a copy of each document submitted including a translation in the native language of the ICCs/IPs concerned in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial, and regional offices of the NCIP and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication: Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspapers and radio station are not available;

61 SEC. 62. *Resolution of Conflicts.* — In cases of conflicting interest, where there are adverse claims within the ancestral domains as delineated in the survey plan, and which cannot be resolved, the NCIP shall hear and decide, after notice to the proper parties, the disputes arising from the delineation of such ancestral domains: Provided, That if the dispute is between and/or among ICCs/IPs regarding the traditional boundaries of their respective ancestral domains, customary process shall be followed. The NCIP shall promulgate the necessary rules and regulations to carry out its adjudicatory functions: Provided, further, That any decision, order, award or ruling of the NCIP on any ancestral domain dispute or on any matter pertaining to the application, implementation, enforcement and interpretation of this Act may be brought for Petition for Review to the Court of Appeals within fifteen (15) days from receipt of a copy thereof.

62 SEC. 54. *Fraudulent Claims.* — The Ancestral Domains Office may, upon written request from the ICCs/IPs, review existing claims which have been fraudulently acquired by any person or community. Any claim found to be fraudulently acquired by, and issued to, any person or community may be cancelled by the NCIP after due notice and hearing of all parties concerned.

63 *Unduran v. Aberasturi*, supra note 53, at 814.

Under the foregoing pronouncements in *Unduran*, it is clear that the NCIP has no jurisdiction over the complaint filed by private respondents considering that the parties do not belong to the same ICC/IP. The case does not fall under any of those where the NCIP has primary jurisdiction even when one of the parties is not an ICC/IP or the parties are from different ICCs/IP, as the injunction prayed for is for the purpose of restraining the implementation of the Notice to Vacate and the Writ of Execution issued by the DARAB.

The Court does not have any reason not to apply the pronouncements in *Unduran*. As a rule, judicial interpretations form part of the law upon the date of effectivity of the said law, and the exception to this is when a doctrine of the Court overturns or reverses a previous doctrine and adopts a different view, in which case the new doctrine must be applied prospectively.[64] The following excerpt from *Columbia Pictures, Inc. v. Honorable Court of Appeals,*[65] cited in *Philippine International Trading Corporation v. Commission on Audit,*[66] explains this in length, to wit:

> Article 4 of the Civil Code provides that "(l)aws shall have no retroactive effect, unless the contrary is provided.["] Correlatively, Article 8 of the same Code declares that "(j)udicial decisions applying the laws or the Constitution shall form part of the legal system of the Philippines."
>
> Jurisprudence, in our system of government, cannot be considered as an independent source of law; it cannot create law. While it is true that judicial decisions which apply or interpret the Constitution or the laws are part of the legal system of the Philippines, still they are not laws. Judicial decisions, though not laws, are nonetheless evidence of what the laws mean, and it is for this reason that they are part of the legal system of the Philippines. Judicial decisions of the Supreme Court assume the same authority as the statute itself.
>
> Interpreting the aforequoted correlated provisions of the Civil Code and in light of the above disquisition, this Court emphatically declared in *Co vs. Court of Appeals, et al.* that the principle of prospectivity applies not only to original amendatory statutes and administrative rulings and circulars, but also, and properly so, to judicial decisions. x x x.
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> x x x x
>
> The reasoning behind *Senarillos vs. Hermosisima* that judicial interpretation of a statute constitutes part of the law as of the date it was originally passed, since the Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect, is all too familiar. **Such judicial doctrine does not amount to the passage of a new law but consists merely of a construction or interpretation of a pre-existing one[.]** x x x.

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64 *See Philippine International Trading Corporation v. Commission on Audit,* 821 Phil. 144 (2017).
65 329 Phil. 875 (1996).
66 *Philippine International Trading Corporation v. Commission on Audit,* supra note 64.

> **It is consequently clear that a judicial interpretation becomes a part of the law as of the date that law was originally passed, subject only to the qualification that when a doctrine of this Court is overruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith.** To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there is no recognition of what had transpired prior to such adjudication.[67] (Emphasis in the original, citations omitted)

It is true that years prior to the ruling in *Unduran,* the Court promulgated its Decision in *City Government of Baguio v. Masweng* (*City Government of Baguio*),[68] where it upheld the jurisdiction of the NCIP over a petition for injunction filed by members of the Ibaloi tribe against the demolition orders issued by the City Mayor of Baguio City. We held therein:

> The NCIP is the primary government agency responsible for the formulation and implementation of policies, plans and programs to protect and promote the rights and well-being of indigenous cultural communities/indigenous peoples (ICCs/IPs) and the recognition of their ancestral domains as well as their rights thereto. In order to fully effectuate its mandate, the NCIP is vested with jurisdiction over all claims and disputes involving the rights of ICCs/IPs. The only condition precedent to the NCIP's assumption of jurisdiction over such disputes is that the parties thereto shall have exhausted all remedies provided under their customary laws and have obtained a certification from the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved.[69] (Citations omitted)

In *Unduran,* particularly in the Resolution dated April 18, 2017, the Court addressed what Justice Jose P. Perez described in his Concurring Opinion to the Decision dated October 20, 2015 as "implicit affirmation" in *City Government of Baguio* of the NCIP's jurisdiction over cases where one of the parties is not an ICC/IP in the following manner:

> Anent what Justice Perez described as the "implicit affirmation" done in *The City Government of Baguio City v. Masweng* of the NCIP's jurisdiction over cases where one of the parties is not ICC/IPs, a careful review of that case would show that the Court merely cited Sections 3 (k), 38 and 66 of the IPRA and Section 5 of NCIP Administrative Circular No. 1-03 dated April 9, 2003, known as the Rules on Pleadings, Practice and Procedure before the NCIP, as bases of its ruling to the effect that disputes or controversies over ancestral lands/domains of ICCs/IPs are within the original and exclusive jurisdiction of the NCIP-RHO. However, the Court did not identify and elaborate on the statutory basis of the NCIP's "original and exclusive jurisdiction" on disputes or controversies over ancestral lands/domains of ICCs/IPs. Hence, such description of the nature and scope of the NCIP's jurisdiction made without argument or full consideration of the point, can only be considered as an *obiter dictum,* which is a mere expression of an opinion with no binding force for

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67 Id. at 155-156.
68 597 Phil. 668 (2009).
69 Id. at 674.

> purposes of *res judicata* and does not embody the determination of the court.[70] (Citations omitted)

From the above discussion, the ruling in *Unduran* on the proper interpretation of Section 66 of the IPRA regarding the NCIP's jurisdiction may be applied to the present case despite the fact that said ruling was only promulgated during the pendency of this case before the Court, and despite the earlier ruling in *City Government of Baguio*. This is because the ruling in the latter is non-binding and a mere expression of opinion and it cannot be said that *Unduran* overturned or reversed a prior doctrine as regards said provision of the IPRA. Hence, with respect to *Unduran*, the Court applies the general rule that a judicial interpretation becomes a part of the law as of the date that law was originally passed.

Considering that the NCIP has no jurisdiction to issue the injunction subject of the present petition, the Court will no longer pass upon the other issues raised by the parties. The Court deems it prudent to do so considering the existence of other cases in relation to the subject land. Civil Case No. 4680 was filed by the Heirs of Egalan-Gubayan clan wherein they prayed that their ownership of the subject land be recognized on the allegation that the claims being processed by the DAR and DENR, including those of the petitioners over the 399 hectares of land, constitute clouds upon their CALT. On the other hand, Civil Case No. 4818 was filed by the Heirs of Egalan-Gubayan clan seeking the nullification of the July 30, 2007 Order of then DENR Secretary Reyes which allowed the DENR to continue acting on the claims of the petitioners over the 399 hectares of the subject land despite the issuance of the CALT in their favor. Finally, the NCIP itself filed a petition for prohibition, mandamus and injunction against the DAR/DARAB (CA-G.R. SP. No. 01377) in order to compel the latter to cease and desist from acting on the claims of the petitioners, with the CA eventually ruling in favor of the NCIP.

While it is true that the 1957 Amended Decision has long attained finality - as recognized by the Court in G.R. No. L-62664 - it is also undisputed that a CALT was already issued in the name of the Heirs of Egalan-Gubayan clan. To the Court's mind, the issue of whether the award in favor of the petitioners is a vested right, which cannot be impaired by the IPRA, or if the passage of the IPRA and the issuance of the CALT are supervening events which has rendered the execution of the award in the 1957 Amended Decision impossible, inequitable, or unfair, are questions which are beyond the scope of the present *certiorari* proceedings. These questions ultimately go into which between the parties has the better right over the disputed land. For this reason, the Court cannot grant petitioners' prayer that we enjoin other courts and other bodies from acting upon cases which tend to affect the execution of the judgment in G.R. No. L-62664.

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70 *Unduran v. Aberasturi*, supra note 53.

Since the Court's ruling in this case is limited to the injunction issued by the NCIP, this shall not be construed as being determinative of the validity of the CALT in the name of the Heirs of Egalan-Gubayan clan. By setting aside the assailed ruling of the NCIP, the Court merely holds that under applicable law and jurisprudence, the action filed by the private respondents is not within the jurisdiction of the NCIP.

WHEREFORE, the petition is **PARTLY GRANTED**. The Decision of the National Commission on Indigenous Peoples dated February 18, 2010, is hereby **NULLIFIED and SET ASIDE**. Accordingly, the complaint for Injunction with Very Urgent Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction filed by private respondents is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice
Chairperson

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

DIOSDADO M. PERALTA
Chief Justice