



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

**AGDAO
RESIDENTS
INC.,**

**LANDLESS
ASSOCIATION,**

G.R. No. 224052

Present:

Petitioner,

PERLAS-BERNABE, S.A.J.,
Chairperson,

HERNANDO,
INTING,
GAERLAN,* and
DIMAAMPAO,** JJ.

- versus -

**JIMMY EUGENIO, HENRY
EUGENIO, LOVELL EUGENIO,
TOMAS PERALES and ELENA
CORGIO,**

Promulgated:

Respondents.

DEC 06 2021 [Signature]

X-----X

DECISION

INTING, J.:

Before the Court is a Petition for Review¹ seeking the reversal of the Decision² dated October 7, 2015 and the Resolution³ dated March 10, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 06239-MIN which affirmed the Decision⁴ dated April 16, 2014 rendered by the Branch 10, Regional Trial Court, Davao City (RTC Branch 10) in Civil Case No. 35,150-13.

* On official leave.

** On official leave.

¹ *Rollo*, pp. 25-39.

² *Id.* at 8-14; penned by Associate Justice Maria Filomena D. Singh with Associate Justices Edgardo T. Lloren and Ronaldo B. Martin, concurring.

³ *Id.* at 16-18.

⁴ *Id.* at 250-257; penned by Presiding Judge Retrina E. Fuentes.

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Agdao Landless Residents Association, Inc. (ALRAI)⁵ filed an unlawful detainer case against Jimmy⁶ Eugenio, Henry Eugenio, Lovell Eugenio, Tomas Perales, Elena Corgio (Eugenio, *et al.*) and several others⁷ (collectively, defendants) before Branch 7, Municipal Trial Court in Cities (MTCC), Davao City, docketed as Civil Case No. 21,340-G-2009.⁸

In the complaint, ALRAI claimed that it is the registered owner of 15 parcels of land in Bo. Obrero, Davao City as evidenced by the titles attached thereto. It further alleged that defendants occupied the subject properties of ALRAI, even if they are not members of the association. Thus, it sent demands to defendants, but they refused to vacate the premises prompting ALRAI to file the ejectment complaint.⁹

MTCC Ruling

With the failure of Eugenio, *et al.* and their co-defendants to seasonably file a responsive pleading, Branch 7, MTCC, Davao City rendered a Decision¹⁰ on June 30, 2009, in favor of ALRAI as follows:

WHEREFORE, [judgment] is hereby rendered in favor of plaintiff and against defendants, their assigns, agents or persons acting on their behalf as follows:

1. To vacate from the properties subject matter of this case.
2. To pay monthly rentals in the sum of Php 3,000.00 computed from the filing of this case until they actually vacate from the property that they occupy.
3. To pay attorney's fees in the sum of Php 20,000.00 and to reimburse the litigation expenses.

SO ORDERED.¹¹

⁵ Represented by its president, Armando Javonillo; *id.* at 59.

⁶ Referred to as "Jaime" in other parts of the records, *id.* at 25.

⁷ Maria Gregory, William Pineda, Charlotte Jacinto, Arnel Pineda, Lolita Pineda, Edina Canalija, Abrillanto Yu, Alex Salibo, Isabelita Borre, Paz Oyan, Armanda Tan, Angelito Tan and Estefanie Jacinto; *id.* at 59.

⁸ *Id.* at 9.

⁹ *Id.* at 59.

¹⁰ *Id.* at 59-60; penned by Judge Rufino S. Ferraris, Jr..

¹¹ *Id.* at 60.

The MTCC held that ALRAI was able to attach to its complaint proof of ownership which convinced the court of ALRAI's title to the properties subject of the case.¹²

RTC Branch 11 Ruling

Eugenio, *et al.* and their co-defendants filed a Notice of Appeal¹³ but failed to submit their Appeal Memorandum within 15 days from notice. Thus, RTC Branch 11 issued an Order on December 16, 2009 that dismissed their appeal. Upon reconsideration, however, the RTC Branch 11 reinstated their action.¹⁴

Eugenio, *et al.*¹⁵ then filed a Joint-Appeal Memorandum wherein they alleged that the Eugenio family had been in open, continuous, and peaceful possession in the concept of an owner of a portion of Lot 508-A at Vinzon St., Bo. Obrero, Davao City which is within Project 1 of Davao that is alienable and disposable and outside the property being claimed by ALRAI. They hired Geodetic Engineer Florencio A. Sasil (Engr. Sasil), who conducted a relocation survey on the lots and found that Eugenio, *et al.*'s position has a distance of 787 meters from the lots of ALRAI.¹⁶

On May 31, 2010, the RTC Branch 11 rendered a Decision¹⁷ affirming the MTCC in this wise:

WHEREFORE, prescinding from the foregoing, the decision of the MTCC Branch 7, Davao City, is hereby AFFIRMED IN TOTO.¹⁸

The RTC Branch 11 held that: (1) ALRAI has the legal right over the subject properties which had been occupied by the defendants who are not members of the association; (2) ALRAI, in whose name the properties are registered, possesses a better right over the defendants; (3) defendants are not members of the association and merely claimed that they acquired their right to possess the subject properties from their

¹² *Id.* at 59-60.

¹³ *Id.* at 73.

¹⁴ See Decision dated May 31, 2010 of Branch 11, Regional Trial Court, Davao City, *id.* at 62.

¹⁵ With the exception of Tomas Perales, *id.*

¹⁶ *Id.*

¹⁷ *Id.* at 61-64; penned by Judge Virginia Hofileña-Europa.

¹⁸ *Id.* at 64.

parents or other predecessors-in-interest, who were members of the association; (4) membership in the association cannot be inherited; and (5) considering that they are not members of ALRAI, defendants do not have the right to possess the properties which they now occupied.¹⁹

Eugenio, *et al.* filed a Motion for Reconsideration, but the RTC Branch 11 denied it in an Order²⁰ dated July 28, 2010. To quote:

WHEREFORE, the Motion for Reconsideration is hereby DENIED. Send the records of the present case back to the court a quo for the execution of its judgment.

SO ORDERED.²¹

On October 13, 2010, the MTCC issued a Writ of Execution to enforce the MTCC Decision dated June 30, 2009.²² Parenthetically, the MTCC also issued a Special Writ of Demolition on May 17, 2010.²³

Motion to Clarify

Meanwhile, the implementation of the writ was deferred due to a motion to clarify/define areas to be vacated with motion for restitution, filed by Eugenio, *et al.*, which prompted the MTCC to constitute a Board of Commissioners to conduct a relocation survey on the subject property.²⁴

Thus, a Report on the Relocation and Verification Survey²⁵ dated July 20, 2011 and signed by the court-appointed commissioner, Engr. Gerardo R. Dida (Engr. Dida); and the ALRAI-appointed commissioner, Engr. Eulogio B. Cubio (Engr. Cubio), was submitted to the MTCC on July 20, 2011. Engr. Sasil, the commissioner appointed by Eugenio, *et al.*, did not sign the report and instead filed a separate report favorable to Eugenio, *et al.*²⁶

¹⁹ *Id.* at 63.

²⁰ *Id.* at 65-66.

²¹ *Id.* at 66.

²² *Id.* at 9.

²³ *Id.* at 257.

²⁴ *Id.* at 9, 28.

²⁵ *Id.* at 67-68.

²⁶ *Id.* at 9, 70-71.

MTCC Order dated May 19, 2013

On May 19, 2013, the MTCC issued an Order²⁷ approving the Report on the Relocation and Verification Survey of Engrs. Dida and Cubio which showed that the structures of Eugenio, *et al.* were within the titled property of ALRAI.²⁸

The *fallo* of the Order reads:

WHEREFORE, premises considered, the findings and conclusion of Engr. Gerardo Dida in his "Report on the Relocation and Verification Survey" is hereby approved.

Consequently, the Motion for restitution to defendants Eugenio the demolished properties of Tomas Perales, Armando Tan, Angelito Tan and Maria Gregory is hereby DENIED.

Let a Special Order of Demolition issue against defendants Jimmy Eugenio, Henry Eugenio, Lovell Eugenio and Elena Corgio.

SO ORDERED.²⁹

On June 14, 2013, Eugenio, *et al.* filed a Notice of Appeal³⁰ from the Order dated May 19, 2013 of the MTCC. However, the MTCC denied it in an Order³¹ dated July 8, 2013.

RTC Branch 10 Ruling

Eugenio, *et al.* went to the RTC *via* Rule 65 with a prayer for a temporary restraining order, preliminary injunction, and preliminary mandatory injunction.³²

On April 16, 2014, the RTC Branch 10 rendered its Decision:³³

WHEREFORE, the petition is GRANTED. The order denying

²⁷ *Id.* at 70-72; penned by Presiding Judge Rufino S. Ferraris, Jr.

²⁸ *Id.*

²⁹ *Id.* at 72.

³⁰ *Id.* at 73.

³¹ *Id.* at 238-239.

³² *Id.* at 250.

³³ *Id.* at 250-257.

the Notice of Appeal dated 8 July 2013 and the special writ of demolition dated May 17, 2010 are NULLIFIED and SET ASIDE.

The Public respondents are directed to immediately give due course to the Notice of Appeal filed by Petitioners and to immediately transmit the entire records of the case to the appellate court.

SO ORDERED.³⁴

The RTC held that the rule that an order of execution may not be appealable admits of exceptions. It ruled that, in the case, the MTCC granted the motion to clarify the area to be vacated by Eugenio, *et al.* in order to clarify and ascertain the area pertaining to them that may be subject of the execution. Thus, it concluded that the subsequent order approving the report of Engr. Dida and totally disregarding the report of Engr. Sasil is not an order of execution itself and therefore, may be subject of an appeal.³⁵

CA Ruling

ALRAI went to the CA *via* Rule 41.

On October 7, 2015, the CA rendered its Decision affirming the RTC.³⁶ It agreed with the RTC's ruling that there are exceptions to the general rule that an order of execution is not appealable.³⁷

ALRAI filed a Motion for Reconsideration,³⁸ but the CA denied it on March 10, 2016.³⁹

Present Petition

ALRAI is now before the Court asserting the following:

³⁴ *Id.* at 257.

³⁵ *Id.* at 254.

³⁶ *Id.* at 14.

³⁷ *Id.* at 13.

³⁸ *Id.* at 49-53.

³⁹ *Id.* at 16-18.

- I. THE HONORABLE [CA] ERRONEOUSLY RULED THAT THE ORDER OF EXECUTION DATED MAY 19, 2013 HAS VARIED THE JUDGEMENT [*sic*] DATED JUNE 30, 2009;
- II. THE HONORABLE [CA] ERRONEOUSLY AFFIRMED THE DECISION OF THE [RTC], BRANCH 10, DAVAO CITY IN RULING THAT THE ORDER OF MTCC, BRANCH 7, DAVAO CITY DATED JULY 8, 2013 DENYING RESPONDENTS' NOTICE OF APPEAL CONSTITUTES GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION; [and]
- III. THE HONORABLE [CA] ERRONEOUSLY OMITTED TO APPLY THE PRINCIPLE OF IMMUTABILITY OF JUDGEMENT [*sic*] IN THE INSTANT CASE.⁴⁰

ALRAI argues that since the inception of their complaint, it has consistently claimed that Eugenio, *et al.* were illegally occupying its titled property. The MTCC and RTC Branch 11 ruled in its favor and ordered that Eugenio, *et al.* should vacate the premises as it is ALRAI which has the better right to possess the subject property. Nonetheless, in order to accommodate Eugenio, *et al.*'s motion to clarify during execution, the MTCC constituted a Board of Commissioners to conduct a relocation survey to confirm the exact metes and bounds of the area. Because the survey report submitted by the majority of the commissioners provided that the structures of Eugenio, *et al.* are within ALRAI's titled property, it follows that the order of execution of the MTCC dated May 19, 2013 is in accordance to the judgment in the unlawful detainer case. The order of execution did not vary the terms of the judgment because it did not go beyond nor contradict what was directed in the decision. It merely implemented the judgment which directed Eugenio, *et al.* to vacate the premises.⁴¹ Eugenio, *et al.*'s insistence that the Order dated May 19, 2013 is a final order, which is therefore appealable, is a mere attempt on their part to relitigate and reopen the merits of the unlawful detainer case which should not be countenanced.⁴²

In their Comment,⁴³ Eugenio, *et al.*, aver that the MTCC, in rendering its decision, failed to properly identify the property subject of

⁴⁰ *Id.* at 30-31.

⁴¹ *Id.* at 31-32.

⁴² *Id.* at 25.

⁴³ *Id.* at 92-101.

the case. Their defense that the land they are occupying is outside ALRAI's titled property cannot be ignored. This occupation was delineated on the ground by a survey conducted by Engr. Sasil as early as 2003. They also argue that the RTC Branch 10 correctly ruled that the order being appealed was precisely issued to determine the correct metes and bounds of their structures that allegedly encroached on the property subject of the execution. The Notice of Appeal pertained not to the Decision rendered by the MTCC in the unlawful detainer case dated June 30, 2009 but to the Order upholding the findings of the court-appointed commissioner, Engr. Dida in his report dated May 19, 2013. The MTCC's grant of the motion to clarify is an admission that the Decision dated June 30, 2009 never became final because it failed to state with particularity the specific area to be vacated by Eugenio, *et al.* Because what is appealed from is not the order of execution but merely clarifies what is to be satisfied in the execution, it is not one of those prohibited from appeal, under Section 1, Rule 41.⁴⁴

ALRAI in its Reply⁴⁵ noted that the matters raised by Eugenio, *et al.* in their Comment are matters that should have been raised as defenses in the case for ejectment. Because they were declared in default and they allowed the judgment in the main case to become final and executory, they are deemed to have waived the right to raise these defenses.⁴⁶

Issue

Whether the MTCC Order which pertained to the survey report of the court-appointed commissioner during execution may be subject of an appeal.

Our Ruling

The petition is granted.

Settled is the rule that when a judgment is final and executory, it becomes immutable, unalterable, and may no longer be modified in any respect, except to correct clerical errors or to make *nunc pro tunc* entries, or when it is a void judgment. A judgment that has attained finality

⁴⁴ *Id.* at 99-100.

⁴⁵ *Id.* at 288-296.

⁴⁶ *Id.* at 289.

becomes the law of the case regardless of claims that it is erroneous.⁴⁷ When a court renders a final judgment, all issues between or among the parties are deemed resolved and its judicial function as regards any matter related to the controversy litigated comes to an end.⁴⁸

Consequently, an order granting a motion for a writ of execution is not appealable.⁴⁹ Under Section 1,⁵⁰ Rule 39 of the Rules of Court, once a judgment has become final and executory, a writ of execution is issued as a matter of course, in the absence of any order restraining its issuance. Once a judgment becomes final, the prevailing party is entitled as a matter of right to a writ of execution. Its issuance becomes the trial court's ministerial duty, with the limitation that the writ must conform substantially to every essential particular of the judgment promulgated.⁵¹

Section 1(e) of Rule 41 also explicitly states that “[n]o appeal may be taken from: x x x an order of execution.”

This stems from public policy and sound practice considerations, that at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law. This is because, as basic reason dictates, there must be an end to litigation otherwise, the winning party's capacity to benefit from the resolution of the case would be rendered futile.⁵²

Indeed, parties will not be allowed, after judgment, to object to the

⁴⁷ *Mayor Vargas v. Cajucom*, 761 Phil. 43, 54 (2015), citing *Abrigo v. Flores*, 711 Phil. 251, 261-262 (2013); *Ramos v. Ramos*, 447 Phil. 114, 119 (2003); and *Victorio v. Rosete*, 603 Phil. 68, 78-79 (2007).

⁴⁸ *Id.*, citing *Anama v. Court of Appeals*, 680 Phil. 305, 315 (2012) and *Far Eastern Surety & Insurance Co., Inc. v. Vda. de Hernandez*, 160-A Phil. 406, 411 (1975).

⁴⁹ *Siy v. NLRC*, 505 Phil. 265, 274 (2005).

⁵⁰ Section 1, Rule 39 of the Rules of Court provides:

SECTION 1. *Execution upon judgments or final orders.* — Execution shall issue as a matter of right, or motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.

If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.

⁵¹ *Mayor Vargas v. Cajucom*, *supra* note 47 at 53.

⁵² *De Ocampo v. RPN-9/Radio Philippines Network, Inc.*, 775 Phil. 169, 176-177 (2015), citing *Filipro, Inc. v. Permanent Savings & Loan Bank*, 534 Phil. 551, 560 (2006).

execution by raising new issues of fact or of law, except in exceptional circumstances.⁵³

While there are recognized exceptions,⁵⁴ the Court does not find that the instant case merits a departure from the well-established principles on execution.

The Court notes that when Eugenio, *et al.* filed their appeal before the RTC Branch 11, they failed to timely file an Appeal Memorandum. The RTC Branch 11, however, still granted their Motion for Reconsideration and allowed them to submit the pleading. There, they were able to fully ventilate their sentiments and argue their position that the Eugenio family had been in open, continuous, and peaceful possession in the concept of an owner of the lot they are occupying which is outside the properties being claimed by ALRAI.⁵⁵

The RTC Branch 11, however, found no merit in Eugenio, *et al.*'s arguments. It affirmed the MTCC's ruling in favor of ALRAI.⁵⁶

Still during the execution stage, the MTCC granted Eugenio, *et al.*'s "motion to clarify/define areas to be vacated by defendants and Motion for restitution to defendants Eugenio the demolished properties of Tomas Perales etc.,"⁵⁷ which led to the resurvey of the premises conducted by three commissioners, one appointed by the court, another appointed by the plaintiff, and the last one appointed by the defendants.⁵⁸

⁵³ Such as when there had been a change in the situation of the parties which makes such execution inequitable, or when it appears that the controversy has ever been submitted to the judgment of the court; or when it appears that the writ of execution has been improvidently issued, or that it is defective in substance, or is issued against the wrong party, or that judgment debt has been paid or otherwise satisfied; or when the writ has been issued without authority. *Mayor Vargas v. Cajucom, supra* note 47 at 54, citing *Anama v. Court of Appeals*, 680 Phil. 305, 315 (2012) and *Far Eastern Surety & Insurance Co., Inc. v. Vda. de Hernandez*, 160-A Phil. 406, 411 (1975).

⁵⁴ Such as when: (1) the writ of execution varies the judgment; (2) there has been a change in the situation of the parties making execution inequitable or unjust; (3) execution is sought to be enforced against property exempt from execution; (4) it appears that the controversy has been submitted to the judgment of the court; (5) the terms of the judgment are not clear enough and there remains room for interpretation thereof; or (6) it appears that the writ of execution has been improvidently issued, or that it is defective in substance or issued against the wrong party, or that the judgment debt has been paid or otherwise satisfied, or the writ was issued without authority. *Mayor Vargas v. Cajucom, supra* note 47 at 56, citing *Philippine Economic Zone Authority v. Borreta*, 519 Phil. 637, 642-643 (2006).

⁵⁵ *Rollo*, p. 62.

⁵⁶ *Id.* at 64.

⁵⁷ *Id.* at 70.

⁵⁸ *Id.*

The survey pushed through on April 28, 2011 in the presence of the representatives of both parties. Thereafter, the court-appointed commissioner, Engr. Dida, submitted his report which showed that Eugenio, *et al.*'s lots were within the titled property of ALRAI, whose nominated commissioner confirmed the survey as shown by his signature on the report.⁵⁹

Engr. Sasil, who was nominated by Eugenio, *et al.*, did not sign the report and manifested his objection thereto. He then filed on the same day a Notice of Conduct of Survey for Eugenio, *et al.*, which he set on May 6, 2011. On said date, Engr. Sasil conducted his own survey and submitted his own relocation survey report with attached sketch plan; he concluded that Eugenio, *et al.*'s houses were not within ALRAI's titled lots. Only Eugenio, *et al.* were present during the survey.⁶⁰

In upholding the findings of the court-appointed commissioner, the MTCC noted Engr. Dida's manifestation that the survey he conducted complied with the provisions of the manual for land surveyors relative to the conduct of the relocation survey when the tie point is already non-existent. Thus, the court found no reason to invalidate the survey conducted by the court-appointed commissioner.⁶¹

The survey conducted by Engr. Sasil meanwhile was done without the presence of the two other commissioners and without notice to ALRAI.⁶²

With this factual milieu, the Court finds no grave abuse on the part of the MTCC in denying Eugenio, *et al.*'s Notice of Appeal.

As correctly explained by Judge Rufino S. Ferraris, Jr. of the MTCC in his Order dated July 8, 2013, the final order is the one that disposed of the case itself which was rendered way back in 2009 and had already gone through the entire process of appeal, had attained finality, and had been remanded to the MTCC for execution. The order sought to be appealed by Eugenio, *et al.* at this time, however, is part of the

⁵⁹ *Id.* at 70.

⁶⁰ *Id.* at 70-71.

⁶¹ *Id.* at 71.

⁶² *Id.* at 71.

execution process. It was an order issued to clarify the actual area that would be the subject of the execution of the judgment—it did not vary the judgment in the case.⁶³

Based on the circumstances of the case, the Court finds that to allow Eugenio, *et al.* to file a Notice of Appeal from the Order dated May 19, 2013 of the MTCC, which approved the report of the court-appointed commissioner, would allow a relitigation of issues already raised and settled before the MTCC and the RTC Branch 11. This cannot be countenanced.

To stress, when a final judgment is executory, the judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest Court of the land. The implementation and execution of judgments that had attained finality becomes ministerial on the courts. Public policy also dictates that once a judgment becomes final, executory, and unappealable, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party. Unjustified delay in the enforcement of a judgment renders inutile the role of courts in disposing justiciable controversies with finality.⁶⁴

Parties may not, by assailing the writ of execution, do indirectly what they cannot do directly, which is attacking the final, immutable and unalterable judgment of the trial court. They may not raise in their opposition to the writ of execution issues that they should have raised in the case during the trial proper or against the judgment *via* an appeal.⁶⁵

WHEREFORE, the petition is **GRANTED**. The Decision dated October 7, 2015 and the Resolution dated March 10, 2016 of the Court of Appeals in CA-G.R. SP No. 06239-MIN are **REVERSED** and **SET ASIDE**. The Order dated July 8, 2013 and the Special Writ of Demolition dated May 17, 2010 of Branch 7, Municipal Trial Court in Cities, Davao City are **REINSTATED**.

⁶³ *Id.* at 239.

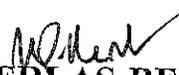
⁶⁴ *Mauleon v. Porter*, 739 Phil. 203, 213-214 (2014), citing *Ocampo v. Vda. De Fernandez*, 552 Phil. 166, 187 (2007).

⁶⁵ *Mayor Vargas v. Cajucom*, *supra* note 47 at 56.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
SAMUEL H. GAERLAN
Associate Justice

(On official leave)
JAPAR B. DIMAAMPAO
Associate Justice

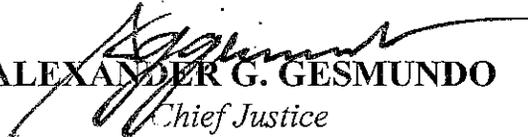
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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.


ALEXANDER G. GESMUNDO
Chief Justice