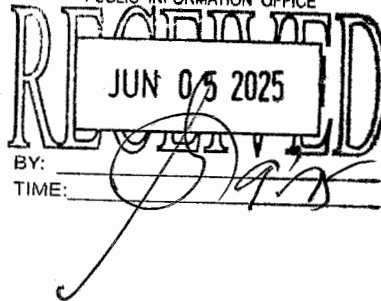




Republic of the Philippines  
Supreme Court  
Baguio City

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



THIRD DIVISION

GIANNI DE MUNARI,  
Petitioner,

G.R. No. 262831

Present:

-versus-

CAGUIOA, J., Chairperson,  
INTING,\*  
GAERLAN,  
DIMAAMPAO, and  
SINGH, JJ.

THELMA GAGUI ASPREC also  
known as THELMA DE MUNARI,  
THELMA PICOTTO AND  
THELMA CENTENO and the  
CIVIL REGISTRAR GENERAL,  
Respondents.

Promulgated:

APR 07 2025

X-----MICROB-H-----X

DECISION

SINGH, J.:

This is a direct recourse to the Court *via* a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Orders, dated August 15, 2022<sup>2</sup> and August 24, 2022,<sup>3</sup> of Branch 47, Regional Trial Court (RTC) of Puerto Princesa City, which dismissed the Complaint for Declaration of Nullity of Marriage filed by petitioner Gianni de Munari (**Gianni**) for lack of jurisdiction, pursuant to Article 17 of the Civil Code.

\* On official business.

<sup>1</sup> *Rollo*, pp. 4-22.

<sup>2</sup> *Id.* at 24-25. Penned by Presiding Judge Jocelyn Sundiang Dilig.

<sup>3</sup> *Id.* at 23.

### *The Facts*

On July 17, 2022, Gianni, an Italian citizen and a resident of the Philippines, filed a Complaint for Declaration of Nullity of Marriage<sup>4</sup> before the RTC praying that his marriage with Thelma Asprec (**Thelma**), a Filipino citizen, be declared null and void, or in the alternative, for the RTC to order the cancellation of their marriage in the records of the Philippine Statistics Authority (**PSA**), for being bigamous.<sup>5</sup>

Gianni, alleged that on December 10, 2011, he married Thelma, in Italy. Their marriage was registered by Thelma at the Consulate General of the Philippines in Milan, Italy on December 29, 2011. However, unknown to Gianni, Thelma previously contracted two marriages. The first was on September 2, 1979 with Menandro Centeno (**Menandro**) celebrated at St. John the Baptist, Calumpit, Bulacan, Philippines, solemnized by Rev. Fr. Francisco Sta Ana. While this marriage was still subsisting, Thelma married Marco Picotto (**Marco**) on August 12, 1991 before Rev. Dante Cortina in Makati City, Philippines.<sup>6</sup>

Gianni alleged that both Menandro and Marco are still alive. Consequently, Gianni alleged that his marriage with Thelma is null and void.<sup>7</sup>

### *The Ruling of the RTC*

On August 2, 2022, the RTC ordered Gianni to furnish copies of the Complaint to the Office of the City Prosecutor and the Office of the Solicitor General pursuant to A.M. No. 02-11-10-SC.<sup>8</sup>

Subsequently, on August 15, 2022, the RTC issued the first assailed Order, which set aside its August 2, 2022 Order and dismissed Gianni's Complaint. According to the RTC, considering that the marriage between Gianni and Thelma was contracted in Italy, the RTC has no jurisdiction over the Complaint pursuant to Article 17 of the Civil Code, which provides:

Article 17. The forms and solemnities of contracts, wills and other public instruments shall be governed by the laws of the country in which they are executed.<sup>9</sup>

---

<sup>4</sup> *Id.* at 26-31.

<sup>5</sup> *Id.* at 24

<sup>6</sup> *Id.* at 27.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 24.

<sup>9</sup> *Id.*



On August 19, 2022, Gianni filed a Motion for Reconsideration, which was denied by the RTC for lack of merit in the second assailed Order, dated August 24, 2022. The RTC reiterated that Gianni's national law governs his marriage with Thelma, which was celebrated in Italy. According to the RTC, it would be a different case if Thelma was the petitioner. Furthermore, the RTC also held that Gianni's alternative prayer for the cancellation of the registration of their marriage in the records of the PSA is a proper subject of Rule 108 of the Rules of Court, and not of a petition for declaration of nullity of marriage.<sup>10</sup>

Gianni then directly sought relief from the Court *via* the present Petition, averring that he is raising pure questions of law. Gianni raised the following grounds to support his Rule 45 Petition:

- A. The trial court gravely erred in finding that it has no jurisdiction in a case for nullity of marriage between a Filipina and a foreign national which was contracted abroad on the basis of Article 17 of the New Civil Code.
- B. The trial court gravely erred in making a distinction between the standing of the petitioner as a foreign national and the Filipina spouse concerning the nullity of marriage on the basis of Article 35 (4) of the Family Code.<sup>11</sup>

### *The Issues*

This Court resolves the following issues:

1. Did the RTC err in dismissing the Complaint for the Declaration of Nullity of a marriage celebrated abroad, filed by a foreigner against a Filipino spouse, due to lack of jurisdiction?
2. Does a foreigner have the legal standing to file for declaration of nullity of a bigamous marriage celebrated abroad with a Filipino spouse before the Philippine courts?

### *The Ruling of the Court*

*The RTC has jurisdiction over complaints for declaration of nullity of*

---

<sup>10</sup> *Id.* at 23.

<sup>11</sup> *Id.* at 8–9.



*a bigamous marriage between a foreigner and a Filipino, even if the marriage was celebrated abroad*

It is a well-established doctrine that the jurisdiction of a court over the subject matter of the action is a matter of law; it is conferred by the Constitution or by law.<sup>12</sup> It cannot be subject to agreement or stipulation.

Pertinent to the present case is Republic Act No. 8369, otherwise known as the Family Courts Act of 1997, which took effect on November 23, 1997. Sections 3 and 5 of Republic Act No. 8369 created Family Courts and granted them exclusive jurisdiction over complaints for declaration of nullity of marriage, among others:

SEC. 3. *Establishment of Family Courts.* — There shall be established a Family Court in every province and city in the country. In case where the city is the capital of the province, the Family Court shall be established in the municipality which has the highest population.

[...]

SEC. 5. *Jurisdiction of Family Courts.* — *The Family Courts shall have exclusive original jurisdiction to hear and decide the following cases:*

a) Criminal cases where one or more of the accused is below [18] years of age but not less than [9] years of age but not less than [9] years of age or where one or more of the victims is a minor at the time of the commission of the offense: Provided, That if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred.

The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the “Child and Youth Welfare Code;”

b) Petitions for guardianship, custody of children, *habeas corpus* in relation to the latter;

c) Petitions for adoption of children and the revocation thereof;

*d) Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains;*

e) Petitions for support and/or acknowledgment;

<sup>12</sup> See *Non v. Office of the Ombudsman*, 882 Phil. 962, 979 (2020) [Per J. Reyes, Jr., *En Banc*].



f) Summary judicial proceedings brought under the provisions of Executive Order No. 209, otherwise known as the "*Family Code of the Philippines*;"

g) Petitions for declaration of status of children as abandoned, dependent[,], or neglected children, petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases cognizable under Presidential Decree No. 603, Executive Order No. 56, (Series of 1986), and other related laws;

h) Petitions for the constitution of the family home;

i) Cases against minors cognizable under the Dangerous Drugs Act, as amended;

j) Violations of Republic Act No. 7610, otherwise known as the "*Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*," as amended by Republic Act No. 7658; and

k) Cases of domestic violence against:

1) Women - which are acts of gender based violence that results, or are likely to result in physical, sexual or psychological harm or suffering to women; and other forms of physical abuse such as battering or threats and coercion which violate a woman's personhood, integrity and freedom movement; and


2) Children - which include the commission of all forms of abuse, neglect, cruelty, exploitation, violence, and discrimination and all other conditions prejudicial to their development.

If an act constitutes a criminal offense, the accused or batterer shall be subject to criminal proceedings and the corresponding penalties.

If any question involving any of the above matters should arise as an incident in any case pending in the regular courts, said incident shall be determined in that court. (Emphasis supplied)

It is equally important to note Section 17 of Republic Act No. 8369, which provides:

SEC. 17. *Transitory Provisions.* — Pending the establishment of such Family Courts, the Supreme Court shall designate from among the branches of the Regional Trial Court at least one Family Court in each of the cities of Manila, Quezon, Pasay, Caloocan, Makati, Pasig, Mandaluyong, Muntinlupa, Laoag, Baguio, Santiago, Dagupan, Olongapo, Cabanatuan, San Jose, Angeles, Cavite, Batangas, Lucena, Naga, Iriga, Legazpi, Roxas, Iloilo, Bacolod, Dumaguete, Tacloban, Cebu, Mandaue, Tagbilaran, Surigao, Butuan, Cagayan de Oro, Davao, General Santos, Oroquieta, Ozamis, Dipolog, Zamboanga, Pagadian, Iligan, and in such other places as the Supreme Court may deem necessary.



Additional cases other than those provided in Sec. 5 may be assigned to the Family Courts when their dockets permit: *Provided*, That such additional cases shall not be heard on the same day family cases are heard.

*In areas where there are no Family Courts, the cases referred to in Section 5 of this Act shall be adjudicated by the Regional Trial Court.*  
(Emphasis supplied)

Based on the foregoing, it is indubitable that the Family Courts, or in their absence, the RTC, are conferred with jurisdiction to handle complaints for declaration of nullity of marriage.

In this case, the RTC dismissed Gianni's Complaint due to lack of jurisdiction pursuant to Article 17 of the Civil Code.

The Court finds no legal basis for the dismissal.

Article 17 of the Civil Code provides that when it comes to the form and solemnities of contracts, wills and other public instruments, the law of the country of execution shall govern. This is also known as the principle of *lex loci celebrationis*. *Lex loci celebrationis* is a conflict of law principle that comes into play when there are substantive issues relating to a contract that is celebrated elsewhere than the place of citizenship of its parties.<sup>13</sup>

With respect to marriages, this principle is expressed in the first paragraph of Article 26 of the Family Code, which states:

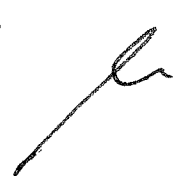
Art. 26. All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, *except those prohibited under Articles 35 (1), (4), (5) and (6), 36, 37 and 38.* (Emphasis supplied)

This provision pertains to the extrinsic validity of the marriage, meaning the formalities and solemnities required by the law of the place where the marriage was celebrated. As long as these requirements are met, the marriage is likewise considered valid in the Philippines.

However, the intrinsic validity or legality of the marriage is a different matter. Article 26 of the Family Code in its last phrase explicitly outlines exceptions to the principle of *lex loci celebrationis*, including bigamous

---

<sup>13</sup> *Ambrose v. Suque-Ambrose*, 905 Phil. 149, 152 (2021) [Per J. Gaerlan, First Division].



marriages. Article 35 (4) of the Family Code explicitly declares that bigamous marriages are void from the beginning.

In the case of *Ambrose v. Suque-Ambrose*,<sup>14</sup> the Court affirmed this principle:

*Along this line, it is useful to state that when the marriage is celebrated elsewhere, its validity does not depend fully on foreign law. While accepted in the jurisdiction in which it is celebrated, it may be held invalid in the Philippines when it falls under the instances mentioned in par. 1, Article 26 of the Family Code such as incestuous or bigamous marriages. As well, irrespective of the place of solemnization of marriage, Philippine laws bind the contracting Filipino citizen with respect to "family rights and duties, status, condition, and legal capacity;" any controversy arising therefrom would then have to be determined in accordance with the same law.*<sup>15</sup> (Emphasis supplied)

Here, Gianni's action concerns the validity of his marriage with Thelma, a Filipino citizen, which was celebrated in Italy. He seeks to have the marriage declared null and void for being bigamous, as he allegedly discovered that Thelma had two prior marriages. It is well to note that Thelma, as a Filipino citizen, is bound by the nationality principle under Article 15 of the Civil Code, which states:

**Article 15.** Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad.

Due to this principle, Filipino citizens are covered by the policy against bigamous marriages, anywhere in the world, as these are considered void *ab initio* in the Philippines.

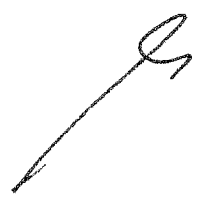
In *Niñal v. Badayog*,<sup>16</sup> the Court discussed the effects of a void marriage and how its nullity can be maintained:

*Under ordinary circumstances, the effect of a void marriage, so far as concerns the conferment of legal rights upon the parties, is as though no marriage had ever taken place. A void marriage produces no legal effects except those declared by law concerning the properties of the alleged spouses, co-ownership or ownership through actual joint contribution, and its effect on the children born to void marriages as provided in Article 50 in relation to Articles 43 and 44 as well as Articles 51, 53, and 54 of the Family Code.*

<sup>14</sup> 905 Phil. 149 (2021) [Per J. Gaerlan, First Division].

<sup>15</sup> *Id.* at 153.

<sup>16</sup> 384 Phil. 661 (2000) [Per J. Ynares-Santiago, First Division].



*And therefore, being good for no legal purpose, its invalidity can be maintained in any proceeding in which the fact of marriage may be material, either direct or collateral, in any civil court between any parties at any time, whether before or after the death of either or both the husband and the wife.* Jurisprudence under the Civil Code states that no judicial decree is necessary in order to establish the nullity of a marriage; the exception to this is Article 40 of the Family Code, which expressly provides that there must be a judicial declaration of the nullity of a previous marriage, though void, and such absolute nullity can be based only on a final judgment to that effect.<sup>17</sup> (Emphasis supplied)

In view of the foregoing, it is evident that Philippine courts have jurisdiction to nullify a bigamous marriage involving a foreigner and a Filipino, even if the marriage was celebrated abroad. This aligns with the principle that the intrinsic validity of a marriage, including its legality, must adhere to Philippine law when one or both of parties are Filipino citizens. This approach prevents individuals from circumventing Philippine laws by marrying abroad, and additionally ensures that the family rights and duties of Filipino citizens are consistently applied. Consequently, even if a marriage is valid in the country where it was celebrated, it can still be declared void in the Philippines if it contravenes the country's legal provisions, such as those prohibiting bigamy, in express exception to Article 26 of the Family Code which concedes the extrinsic validity of a marriage celebrated abroad in accordance with the laws of the country of celebration.

*A foreign national has the personality to file declaration of nullity of a bigamous marriage with a Filipino spouse*

A petition to declare the nullity of marriage, like any other actions, must be prosecuted or defended in the name of the real party in interest and must be based on a cause of action.<sup>18</sup>

Significantly, Section 2 (a) of SC Administrative Matter No. 02-11-10-SC or *The Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages*, specifically provides:

SECTION 2. Petition for declaration of absolute nullity of void marriages. —

(a) Who may file. — A petition for declaration of absolute nullity of void marriage may be *filed solely by the husband or the wife.* (Underscoring supplied)

<sup>17</sup> *Id.* at 674–675.

<sup>18</sup> *Amor-Catalan v. Court of Appeals*, 543 Phil. 568, 577 (2007) [Per J. Ynares-Santiago, Third Division].





This provision clearly states that only either the husband or the wife may file a petition to declare the marriage void. It is important to note that there is no distinction between Filipinos and foreigners regarding who may institute an action for nullity of marriage.

In *Ambrose*, the Court affirmed that there is no procedural barrier preventing a foreigner from filing a petition for declaration of nullity of marriage on the ground of psychological incapacity as the foregoing provision makes no distinction between citizens of the Philippines and a foreigner:

*Furthermore, a review of procedural rules present no obstacle in the instant action being instituted by a foreigner. Legal capacity to sue or the capacity to institute legal action is governed by [Rule 3, Section 1] of the Rules of Civil Procedure, under which, "[o]nly natural or juridical persons, or entities authorized by law may be parties in a civil action." The absence of legal capacity to sue indicates the general disability of a plaintiff to sue as when a plaintiff is not in the exercise of his or her civil rights, does not have the necessary qualification to appear in the case, or does not have the character or representation; which may be on account of minority, insanity, incompetence, lack of juridical personality, or other similar grounds for disqualification.*

Lack of capacity to sue is distinguished from lack of legal personality to sue while the former refers to the general disqualification of a plaintiff to institute an action, the latter refers to the fact that the plaintiff is not the real party in interest. As defined under [Rule 3, Section 2] of the Rules of Civil Procedure, "[a] real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit." A real party in interest is one who possesses a substantial interest in the case as a result of breach of a legal right.

Both "lack of legal capacity to sue" and "lack of legal personality" to sue are affirmative defenses. In the first, the ground is "that the plaintiff has no legal capacity to sue," while in the second, the ground is based on the fact "that the pleading asserting the claim states no cause of action."

Based on the foregoing, it is clear that the petitioner has both the legal capacity and personality to sue. His legal personality proceeds from the fact that it is his marriage to the respondent, which, in turn, relates to his civil status, that stands to be affected by the petition for nullity that he instituted. He has legal personality in the action as he has personal and material interest in the result of the action.

*With respect to his legal capacity to sue, the statement as to who may institute an action a petition for nullity of marriage does not distinguish between citizens of the Philippines and foreigners. Section 2 of A.M. No. 02-11-10-SC, provides:*

**Section 2.** *Petition for declaration of absolute nullity of void marriages. —*



A. *Who may file.* — A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife

The provision is clear in that either of the contracting parties may file a petition to declare the marriage void. It is a basic rule in statutory construction that where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit nec nos distinguere debemos*. No distinction should be made in the application of the law where none has been indicated. Courts can only interpret the law; it cannot read into the law what is not written therein.<sup>19</sup> (Emphasis supplied, citations omitted)

Given the foregoing, the RTC erred in dismissing the Complaint filed by Gianni by making a distinction between his legal capacity to sue and that of Thelma. By doing so, it failed to address the factual issues necessary to resolve whether the marriage between the parties should be nullified on the ground of bigamy. This oversight contradicts the court's duty to invalidate bigamous marriages, which are not only illegal but also undermine the legal and moral foundation of the marital institution.

Bigamous marriages are so offensive to public policy that, in the case of *Juliano-Llave v. Republic*,<sup>20</sup> the Court held that the rule allowing only the husband or the wife to ask for the nullity of a marriage does not prevent the prior spouse from filing a suit if the ground is a bigamous subsequent marriage, thus:


Note that the Rationale makes it clear that Section 2(a) of A.M. No. 02-11-10-SC refers to the "aggrieved or injured spouse." If Estrellita's interpretation is employed, the prior spouse is unjustly precluded from filing an action. Surely, this is not what the Rule contemplated.

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.<sup>21</sup>

<sup>19</sup> *Ambrose v. Suque-Ambrose*, 905 Phil. 149, 153–155 (2021) [Per J. Gaerlan, First Division].

<sup>20</sup> 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].

<sup>21</sup> *Id.* at 223–224.



Additionally, in the case of *Fujiki v. Marinay*,<sup>22</sup> the Court recognized the legal standing of a Japanese national, to file a petition to recognize a foreign judgment nullifying a subsequent bigamous marriage of his Filipino wife to another Japanese national. The Court emphasized that a foreign judgment declaring a bigamous marriage void is fully consistent with Philippine public policy:

There is therefore no reason to disallow Fujiki to simply prove as a fact the Japanese Family Court judgment nullifying the marriage between Marinay and Maekara on the ground of bigamy. While the Philippines has no divorce law, the Japanese Family Court judgment is fully consistent with Philippine public policy, as bigamous marriages are declared void from the beginning under Article 35 (4) of the Family Code. Bigamy is a crime under Article 349 of the Revised Penal Code.<sup>23</sup>

[...]

Article 35 (4) of the Family Code, which declares bigamous marriages void from the beginning, is the civil aspect of Article 349 of the Revised Penal Code, which penalizes bigamy. Bigamy is a public crime. Thus, anyone can initiate prosecution for bigamy because any citizen has an interest in the prosecution and prevention of crimes. If anyone can file a criminal action which leads to the declaration of nullity of a bigamous marriage, *there is more reason to confer personality to sue on the husband or the wife of a subsisting marriage*. The prior spouse does not only share in the public interest of prosecuting and preventing crimes, he is also personally interested in the purely civil aspect of protecting his marriage.<sup>24</sup> (Emphasis supplied)

If a person not party to the marriage can challenge a bigamous marriage, there is no reason to foreclose Gianni's action to nullify his alleged bigamous marriage with Thelma. His legal standing is further justified as the present action pertains to his civil status, condition, and legal capacity. If Gianni is indeed an unsuspecting victim of a bigamous marriage, he must be granted the right to seek redress and have the marriage declared null and void, thereby restoring his legal capacity to enter into a valid marriage in the future.

Moreover, recognizing Gianni's right to file the Complaint upholds the principles of justice and fairness. It ensures that individuals are not left without recourse when they are deceived into entering a marriage that is fundamentally flawed and legally untenable.

However, considering that a petition for review on *certiorari* is limited to questions of law and the Court is not a trier of facts, the remand of this case to the RTC for the proper resolution of this case on the merits is called for.

<sup>22</sup> 712 Phil. 524 (2013) [Per J. Carpio, Second Division].

<sup>23</sup> *Id.* at 548.

<sup>24</sup> *Id.* at 551.



**ACCORDINGLY**, the Petition for Review on *Certiorari* filed by Gianni De Munari is **GRANTED**. The Orders, dated August 15, 2022 and August 24, 2022, of Branch 47, Regional Trial Court of Puerto Princesa City are **REVERSED**. The case is **REMANDED** to the Regional Trial Court for further proceedings, which shall be pursued with utmost dispatch.

**SO ORDERED.”**

  
**MARIA FILOMENA D. SINGH**  
Associate Justice

**WE CONCUR:**

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

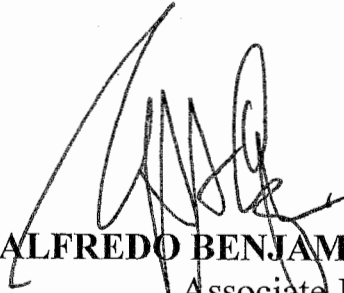
On official business  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
Associate Justice

**ATTESTATION**

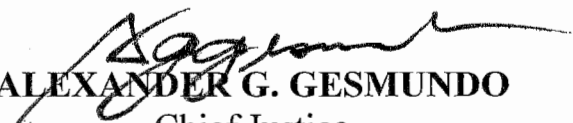
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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

