



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JONATHAN Y. DEE,

Petitioner,

G.R. No. 224834

- versus -

HARVEST ALL INVESTMENT LIMITED, VICTORY FUND LIMITED, BONDEAST PRIVATE LIMITED, and ALBERT HONG HIN KAY, as Minority Shareholders of ALLIANCE SELECT FOODS INTERNATIONAL, INC., and HEDY S.C. YAP-CHUA, as Director and Shareholder of ALLIANCE SELECT FOODS INTERNATIONAL, INC.,

Respondents.

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HARVEST ALL INVESTMENT LIMITED, VICTORY FUND LIMITED, BONDEAST PRIVATE LIMITED, ALBERT HONG HIN KAY, as Minority Shareholders of Alliance Select Foods International, Inc., and HEDY S.C. YAP-CHUA, as a Director and Shareholder of Alliance Select Foods International, Inc.,

Petitioners,

G.R. No. 224871

Present:

SERENO, C.J., Chairperson,
VELASCO, JR.,*
LEONARDO-DE CASTRO,
PERLAS-BERNABE, and
CAGUIOA, JJ.

* Designated Additional Member per Raffle dated February 22, 2017.

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- versus -

**ALLIANCE SELECT FOODS
INTERNATIONAL, INC.,
GEORGE E. SYCIP,
JONATHAN Y. DEE,
RAYMUND K.H. SEE, MARY
GRACE T. VERA-CRUZ,
ANTONIO C. PACIS, ERWIN
M. ELECHICON, and
BARBARA ANNE C.
MIGALLOS,**

Respondents.

Promulgated:

MAR 15 2017

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DECISION

PERLAS-BERNABE, J.:

Assailed in these consolidated petitions¹ for review on *certiorari* are the Decision² dated February 15, 2016 and the Resolution³ dated May 25, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 142213, which reversed the Resolution⁴ dated August 24, 2015 of the Regional Trial Court of Pasig City, Branch 159 (RTC) in COMM'L. CASE NO. 15-234 and, accordingly, reinstated the case and remanded the same to the court *a quo* for further proceedings after payment of the proper legal fees.

The Facts

Harvest All Investment Limited, Victory Fund Limited, Bondeast Private Limited, Albert Hong Hin Kay, and Hedy S.C. Yap Chua (Harvest All, *et al.*) are, in their own capacities, minority stockholders of Alliance Select Foods International, Inc. (Alliance), with Hedy S.C. Yap Chua acting as a member of Alliance's Board of Directors.⁵ As per Alliance's by-laws, its Annual Stockholders' Meeting (ASM) is held every June 15.⁶ However, in a Special Board of Directors Meeting held at three (3) o'clock in the afternoon of May 29, 2015, the Board of Directors, over Hedy S.C. Yap Chua's objections, passed a Board Resolution indefinitely postponing Alliance's 2015 ASM pending complete subscription to its Stock Rights

¹ *Rollo* (G.R. No. 224834), Vol. I, pp. 45-108; *rollo* (G.R. No. 224871), Vol. I, pp. 14-44.

² *Rollo* (G.R. No. 224834), Vol. I, pp. 12-22. Penned by Associate Justice Mario V. Lopez with Associate Justices Rosmari D. Carandang and Myra V. Garcia-Fernandez concurring.

³ *Id.* at 24-28.

⁴ *Id.* at 311-318. Penned by Presiding Judge Elma M. Rafallo-Lingan.

⁵ See *rollo* (G.R. No. 224871), Vol. I, pp. 14 and 19.

⁶ See *id.* at 121.

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Offering (SRO) consisting of shares with total value of ₱1 Billion which was earlier approved in a Board Resolution passed on February 17, 2015. As per Alliance's Disclosure dated May 29, 2015 filed before the Philippine Stock Exchange, such postponement was made "to give the stockholders of [Alliance] better representation in the annual meeting, after taking into consideration their subscription to the [SRO] of [Alliance]."⁷ This prompted Harvest All, *et al.* to file the instant Complaint (with Application for the Issuance of a Writ of Preliminary Mandatory Injunction and Temporary Restraining Order/Writ of Preliminary Injunction)⁸ involving an intra-corporate controversy against Alliance, and its other Board members, namely, George E. Sycip, Jonathan Y. Dee, Raymund K.H. See, Mary Grace T. Vera-Cruz, Antonio C. Pacis, Erwin M. Elechicon, and Barbara Anne C. Migallos (Alliance Board). In said complaint, Harvest All, *et al.* principally claimed that the subscription to the new shares through the SRO cannot be made a condition precedent to the exercise by the current stockholders of their right to vote in the 2015 ASM; otherwise, they will be deprived of their full voting rights proportionate to their existing shareholdings.⁹ Thus, Harvest All, *et al.*, prayed for, *inter alia*, the declaration of nullity of the Board Resolution dated May 29, 2015 indefinitely postponing the 2015 ASM, as well as the Board Resolution dated February 17, 2015 approving the SRO.¹⁰ The Clerk of Court of the RTC assessed Harvest All, *et al.* with filing fees amounting to ₱8,860.00 which they paid accordingly.¹¹ Later on, Harvest All, *et al.* filed an Amended Complaint:¹² (a) deleting its prayer to declare null and void the Board Resolution dated February 17, 2015 approving the SRO; and (b) instead, prayed that the Alliance Board be enjoined from implementing and carrying out the SRO prior to and as a condition for the holding of the 2015 ASM.¹³

For its part, the Alliance Board raised the issue of lack of jurisdiction on the ground of Harvest All, *et al.*'s failure to pay the correct filing fees. It argued that the latter should have paid ₱20 Million, more or less, in filing fees based on the SRO which was valued at ₱1 Billion. However, Harvest All, *et al.* did not mention such capital infusion in their prayers and, as such, were only made to pay the measly sum of ₱8,860.00. On the other hand, Harvest All, *et al.* maintained that they paid the correct filing fees, considering that the subject of their complaint is the holding of the 2015 ASM and not a claim on the aforesaid value of the SRO. Harvest All, *et al.* likewise pointed out that they simply relied on the assessment of the Clerk of Court and had no intention to defraud the government.¹⁴

⁷ See *id.* at 19-20. See also *rollo* (G.R. No. 224834), Vol. I, p. 13.

⁸ Dated July 31, 2015. *Rollo* (G.R. No. 224871), Vol. I, pp. 544-577.

⁹ See *id.* at 558-568.

¹⁰ See *id.* at 575.

¹¹ See *rollo* (G.R. No. 224834), Vol. I, p. 14.

¹² See Amended Complaint; *rollo* (G.R. No. 224871), Vol. I, pp. 107-144.

¹³ See *id.* at 137-138.

¹⁴ See *rollo* (G.R. No. 224834), Vol. I, pp. 13-14.

The RTC Ruling

In a Resolution¹⁵ dated August 24, 2015, the RTC dismissed the instant complaint for lack of jurisdiction due to Harvest All, *et al.*'s failure to pay the correct filing fees.¹⁶ Citing Rule 141 of the Rules of Court, as amended by A.M. No. 04-2-04-SC,¹⁷ and the Court's pronouncement in *Lu v. Lu Ym, Sr. (Lu)*,¹⁸ the RTC found that the basis for the computation of filing fees should have been the ₱1 Billion value of the SRO, it being the property in litigation. As such, Harvest All, *et al.* should have paid filing fees in the amount of more or less ₱20 Million and not just ₱8,860.00. In this regard, the RTC also found that Harvest All, *et al.*'s payment of incorrect filing fees was done in bad faith and with clear intent to defraud the government, considering that: (a) when the issue on correct filing fees was first raised during the hearing on the application for TRO, Harvest All, *et al.* never manifested their willingness to abide by the Rules by paying additional filing fees when so required; (b) despite Harvest All, *et al.*'s admission in their complaint that the SRO was valued at ₱1 Billion, they chose to keep mum on the meager assessment made by the Clerk of Court; and (c) while Harvest All, *et al.* made mention of the SRO in the body of their complaint, they failed to indicate the same in their prayer, thus, preventing the Clerk of Court from making the correct assessment of filing fees.¹⁹

Aggrieved, Harvest All, *et al.* appealed²⁰ to the CA.

The CA Ruling

In a Decision²¹ dated February 15, 2016, the CA reversed the RTC's order of dismissal and, accordingly, reinstated the case and remanded the same to the court *a quo* for further proceedings after payment of the proper legal fees.²² Also citing Rule 141 of the Rules of Court, as amended by A.M. No. 04-2-04-SC, and *Lu*, the CA held that the prevailing rule is that all intra-corporate controversies always involve a property in litigation. Consequently, it agreed with the RTC's finding that the basis for the computation of filing fees should have been the ₱1 Billion value of the SRO and, thus, Harvest All, *et al.* should have paid filing fees in the amount of more or less ₱20 Million and not just ₱8,860.00.²³ However, in the absence of contrary evidence, the CA held that Harvest All, *et al.* were not in bad

¹⁵ Id. at 311-318.

¹⁶ See id. at 316-317.

¹⁷ Entitled "RE: PROPOSED REVISION OF RULE 141, REVISED RULES OF COURT, LEGAL FEES" (August 16, 2004).

¹⁸ 658 Phil. 156 (2011).

¹⁹ See *rollo* (G.R. No. 224834), Vol. I, pp. 312-316.

²⁰ See Petition for Review (with Prayer for the Issuance of a Temporary Restraining Order and/or Preliminary Injunction) dated September 8, 2015; id. at 331-377.

²¹ Id. at 12-22.

²² See id. at 21.

²³ See id. at 15-18.

faith and had no intention of defrauding the government, as they merely relied in the assessment of the Clerk of Court. Thus, in the interest of substantial justice, the CA ordered the reinstatement of Harvest All, *et al.*'s complaint and the remand of the same to the RTC for further proceedings, provided that they pay the correct filing fees.²⁴

The parties moved for reconsideration,²⁵ which were, however, denied in a Resolution²⁶ dated May 25, 2016. Hence, these consolidated petitions.

The Issues Before the Court

The primordial issues raised for the Court's resolution are: (a) whether or not Harvest All, *et al.* paid insufficient filing fees for their complaint, as the same should have been based on the ₱1 Billion value of the SRO; and (b) if Harvest All, *et al.* indeed paid insufficient filing fees, whether or not such act was made in good faith and without any intent to defraud the government.

The Court's Ruling

The petition in **G.R. No. 224834** is denied, while the petition in **G.R. No. 224871** is partly granted.

I.

At the outset, the Court notes that in ruling that the correct filing fees for Harvest All, *et al.*'s complaint should be based on the ₱1 Billion value of the SRO – and, thus, essentially holding that such complaint was capable of pecuniary estimation – both the RTC and the CA heavily relied on the Court's pronouncement in *Lu*. In *Lu*, the Court mentioned that in view of A.M. No. 04-2-04-SC dated July 20, 2004 which introduced Section 21 (k)²⁷ to Rule 141 of the Rules of Court, it seemed that “an intra-corporate controversy always involves a property in litigation” and that “there can be

²⁴ See *id.* at 19-21.

²⁵ See *id.* at 24.

²⁶ *Id.* at 24-28.

²⁷ Section 21(k), Rule 141 of the Rules of Court reads:

Section 21. *Other fees.* – The following fees shall also be collected by the clerks of the Regional Trial Courts or courts of the first level, as the case may be:

x x x x

(k) For petitions for insolvency or other cases involving intra-corporate controversies, the fees prescribed under Section 7 (a) shall apply.

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no case of intra-corporate controversy where the value of the subject matter cannot be estimated.”²⁸

However, after a careful reading of *Lu*, it appears that Harvest All, *et al.* correctly pointed out²⁹ that the foregoing statements were in the nature of an *obiter dictum*.

To recount, in *Lu*, the Court ruled, *inter alia*, that the case involving an intra-corporate controversy instituted therein, *i.e.*, declaration of nullity of share issuance, is incapable of pecuniary estimation and, thus, the correct docket fees were paid.³⁰ Despite such pronouncement, the Court still went on to say that had the complaint therein been filed during the effectivity of A.M. No. 04-2-04-SC, then it would have ruled otherwise because the amendments brought about by the same “seem to imply that there can be no case of intra-corporate controversy where the value of the subject matter cannot be estimated,”³¹ *viz.*:

The new Section 21 (k) of Rule 141 of the Rules of Court, as amended by A.M. No. 04-2-04-SC (July 20, 2004), expressly provides that “[f]or petitions for insolvency or other cases involving intra-corporate controversies, the fees prescribed under Section 7 (a) shall apply.” *Notatu dignum* is that paragraph (b) 1 & 3 of Section 7 thereof was omitted from the reference. Said paragraph refers to docket fees for filing “[a]ctions where the value of the subject matter cannot be estimated” and “all other actions not involving property.”

By referring the computation of such docket fees to paragraph (a) only, it denotes that an intra-corporate controversy always involves a property in litigation, the value of which is always the basis for computing the applicable filing fees. The latest amendments seem to imply that there can be no case of intra-corporate controversy where the value of the subject matter cannot be estimated. Even one for a mere inspection of corporate books.

If the complaint were filed today, one could safely find refuge in the express phraseology of Section 21 (k) of Rule 141 that paragraph (a) alone applies.

In the present case, however, the original Complaint was filed on August 14, 2000 during which time Section 7, without qualification, was the applicable provision. Even the Amended Complaint was filed on March 31, 2003 during which time the applicable rule expressed that paragraphs (a) and (b) 1 & 3 shall be the basis for computing the filing fees in intra-corporate cases, recognizing that there could be an intra-corporate controversy where the value of the subject matter cannot be estimated, such as an action for inspection of corporate books. **The immediate illustration shows that no mistake can even be attributed to**

²⁸ *Lu v. Lu Ym, Sr.*, supra note 18, at 190.

²⁹ See *rollo* (G.R. No. 224871), Vol. I, pp. 39-40

³⁰ See *Lu v. Lu Ym, Sr.*, supra note 18, at 179-184.

³¹ *Id.* at 190.

the RTC clerk of court in the assessment of the docket fees.³²
(Emphases and underscoring supplied)

Accordingly, the passages in *Lu* that “an intra-corporate controversy always involves a property in litigation” and that “there can be no case of intra-corporate controversy where the value of the subject matter cannot be estimated” are clearly non-determinative of the antecedents involved in that case and, hence, cannot be controlling jurisprudence to bind our courts when it adjudicates similar cases upon the principle of *stare decisis*. As it is evident, these passages in *Lu* only constitute an opinion delivered by the Court as a “by the way” in relation to a hypothetical scenario (*i.e.*, if the complaint was filed during the effectivity of A.M. No. 04-2-04-SC, which it was not) different from the actual case before it.

In *Land Bank of the Philippines v. Santos*,³³ the Court had the opportunity to define an *obiter dictum* and discuss its legal effects as follows:

[An obiter dictum] “x x x is a remark made, or opinion expressed, by a judge, in his decision upon a cause by the way, that is, incidentally or collaterally, and not directly upon the question before him, or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument. It does not embody the resolution or determination of the court, and is made without argument, or full consideration of the point. It lacks the force of an adjudication, being a mere expression of an opinion with no binding force for purposes of *res judicata*.”³⁴ (Emphasis and underscoring supplied)

For these reasons, therefore, the courts *a quo* erred in applying the case of *Lu*.

II.

In any event, the Court finds that the *obiter dictum* stated in *Lu* was actually incorrect. This is because depending on the nature of the principal action or remedy sought, an intra-corporate controversy may involve a subject matter which is either capable or incapable of pecuniary estimation.

In *Cabrera v. Francisco*,³⁵ the Court laid down the parameters in determining whether an action is considered capable of pecuniary estimation or not:

³² Id. at 190-191.

³³ See G.R. Nos. 213863 and 214021, January 27, 2016.

³⁴ See *id.*; citations omitted.

³⁵ 716 Phil. 574 (2013).

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In determining whether an action is one the subject matter of which is not capable of pecuniary estimation this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the [C]ourts of [F]irst [I]nstance would depend on the amount of the claim. However, **where the basic issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money,** and are cognizable exclusively by [C]ourts of [F]irst [I]nstance (now Regional Trial Courts).³⁶ (Emphases and underscoring supplied)

This case is a precise illustration as to how an intra-corporate controversy may be classified as an action whose subject matter is **incapable of pecuniary estimation**. A cursory perusal of Harvest All, *et al.*'s Complaint and Amended Complaint reveals that **its main purpose is to have Alliance hold its 2015 ASM on the date set in the corporation's by-laws,** or at the time when Alliance's SRO has yet to fully materialize, so that their voting interest with the corporation would somehow be preserved. Thus, Harvest All, *et al.* sought for the nullity of the Alliance Board Resolution passed on May 29, 2015 which indefinitely postponed the corporation's 2015 ASM pending completion of subscription to the SRO.³⁷ Certainly, Harvest All, *et al.*'s prayer for nullity, as well as the concomitant relief of holding the 2015 ASM as scheduled in the by-laws, do **not** involve the recovery of sum of money. The mere mention of Alliance's impending SRO valued at ₱1 Billion cannot transform the nature of Harvest All, *et al.*'s action to one capable of pecuniary estimation, considering that: (a) Harvest All, *et al.* do not claim ownership of, or much less entitlement to, the shares subject of the SRO; and (b) such mention was merely narrative or descriptive in order to emphasize the severe dilution that their voting interest as minority shareholders would suffer if the 2015 ASM were to be held after the SRO was completed. If, in the end, a sum of money or anything capable of pecuniary estimation would be recovered by virtue of Harvest All, *et al.*'s complaint, then it would simply be the consequence of their principal action. Clearly therefore, Harvest All, *et al.*'s action was one incapable of pecuniary estimation.

At this juncture, it should be mentioned that the Court passed A.M. No. 04-02-04-SC³⁸ dated October 5, 2016, which introduced amendments to the schedule of legal fees to be collected in various commercial cases,

³⁶ Id. at 586-587, citing *De Ungria v. CA*, 669 Phil. 585, 597 (2011).

³⁷ See *rollo* (G.R. No. 224871), Vol. I, pp. 138 and 575.

³⁸ Entitled "THE LEGAL FEES TO BE COLLECTED IN CASES OF LIQUIDATION OF SOLVENT JURIDICAL DEBTORS, LIQUIDATION OF INSOLVENT JURIDICAL AND INDIVIDUAL DEBTORS, CONVERSION FROM REHABILITATION TO LIQUIDATION PROCEEDINGS, SUSPENSION OF PAYMENTS OF INSOLVENT INDIVIDUAL DEBTORS AND PETITIONS IN AN OUT OF COURT RESTRUCTURING AGREEMENT PROVIDED UNDER A.M. NOS. 12-12-11-SC AND 15-04-06-SC."

including those involving intra-corporate controversies. Pertinent portions of A.M. No. 04-02-04-SC read:

RESOLUTION

x x x x

Whereas, Rule 141 of the Revised Rules of Court, as amended by A.M. No. 04-2-04-SC effective 16 August 2004, incorporated the equitable schedule of legal fees prescribed for petitions for rehabilitation under Section 21 (i) thereof and, furthermore, provided under Section 21(k) thereof that the fees prescribed under Section 7(a) of the said rule shall apply to petitions for insolvency or other cases involving intra-corporate controversies;

x x x x

NOW, THEREFORE, the Court resolves to ADOPT a new schedule of filing fees as follows:

x x x x

4. Section 21 (k) of Rule 141 of the Revised Rules of Court is hereby DELETED as the fees covering petitions for insolvency are already provided for in this Resolution. As for cases involving intra-corporate controversies, the applicable fees shall be those provided under Section 7 (a), 7 (b) (1), or 7 (b) (3) of Rule 141 of the Revised Rules of Court depending on the nature of the action.

x x x x

This Resolution shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of national circulation. The Office of the Court Administrator (OCA) is directed to circularize the same upon its effectivity. (Emphases and underscoring supplied)

Verily, the **deletion of Section 21 (k) of Rule 141 and in lieu thereof, the application of Section 7 (a) [fees for actions where the value of the subject matter can be determined/estimated], 7 (b) (1) [fees for actions where the value of the subject matter cannot be estimated], or 7 (b) (3) [fees for all other actions not involving property] of the same Rule to cases involving intra-corporate controversies for the determination of the correct filing fees**, as the case may be, serves a dual purpose: on the one hand, the amendments concretize the Court's recognition that the subject matter of an intra-corporate controversy may or may not be capable of pecuniary estimation; and on the other hand, they were also made to correct the anomaly created by A.M. No. 04-2-04-SC dated July 20, 2004 (as advanced by the *Lu obiter dictum*) implying that all intra-corporate cases involved a subject matter which is deemed capable of pecuniary estimation.

While the Court is not unaware that the amendments brought by A.M. No. 04-02-04-SC dated October 5, 2016 only came after the filing of the complaint subject of this case, such amendments may nevertheless be given retroactive effect so as to make them applicable to the resolution of the instant consolidated petitions as they merely pertained to a procedural rule, *i.e.*, Rule 141, and not substantive law. In *Tan, Jr. v. CA*,³⁹ the Court thoroughly explained the retroactive effectivity of procedural rules, *viz.*:

The general rule that statutes are prospective and not retroactive does not ordinarily apply to procedural laws. It has been held that “a retroactive law, in a legal sense, is one which takes away or impairs vested rights acquired under laws, or creates a new obligation and imposes a new duty, or attaches a new disability, in respect of transactions or considerations already past. **Hence, remedial statutes or statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the legal conception of a retroactive law, or the general rule against the retroactive operation of statutes.**” The general rule against giving statutes retroactive operation whose effect is to impair the obligations of contract or to disturb vested rights does not prevent the application of statutes to proceedings pending at the time of their enactment where they neither create new nor take away vested rights. **A new statute which deals with procedure only is presumptively applicable to all actions – those which have accrued or are pending.**

Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense and to that extent. The fact that procedural statutes may somehow affect the litigants’ rights may not preclude their retroactive application to pending actions. **The retroactive application of procedural laws is not violative of any right of a person who may feel that he is adversely affected. Nor is the retroactive application of procedural statutes constitutionally objectionable. The reason is that as a general rule no vested right may attach to, nor arise from, procedural laws.** It has been held that “a person has no vested right in any particular remedy, and a litigant cannot insist on the application to the trial of his case, whether civil or criminal, of any other than the existing rules of procedure.”⁴⁰ (Emphases and underscoring supplied)

In view of the foregoing, and having classified *Harvest All, et al.*’s action as one incapable of pecuniary estimation, the Court finds that *Harvest All, et al.* should be made to pay the appropriate docket fees in accordance with the applicable fees provided under Section 7 (b) (3) of Rule 141 [fees for all other actions not involving property] of the Revised Rules of Court, in conformity with A.M. No. 04-02-04-SC dated October 5, 2016. The matter is therefore remanded to the RTC in order:

³⁹ 424 Phil. 556 (2002).

⁴⁰ *Id.* at 569; citation omitted.

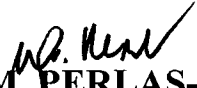
(a) to first determine if Harvest, *et al.*'s payment of filing fees in the amount of ₱8,860.00, as initially assessed by the Clerk of Court, constitutes sufficient compliance with A.M. No. 04-02-04-SC;

(b) if Harvest All, *et al.*'s payment of ₱8,860.00 is insufficient, to require Harvest, *et al.*'s payment of any discrepancy within a period of fifteen (15) days from notice, and after such payment, proceed with the regular proceedings of the case with dispatch; or


(c) if Harvest All, *et al.*'s payment of ₱8,860.00 is already sufficient, proceed with the regular proceedings of the case with dispatch.


WHEREFORE, the petition in **G.R. No. 224834** is **DENIED**, while the petition in **G.R. No. 224871** is **PARTLY GRANTED**. The Decision dated February 15, 2016 and the Resolution dated May 25, 2016 of the Court of Appeals in CA-G.R. SP No. 142213 are hereby **AFFIRMED** with **MODIFICATION** in that COMM'L. CASE NO. 15-234 is hereby **REMANDED** to the Regional Trial Court of Pasig City, Branch 159 for further proceedings as stated in the final paragraph of this Decision.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson


PRESBITERO J. VELASCO, JR.
 Associate Justice


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
 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 cases were assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice