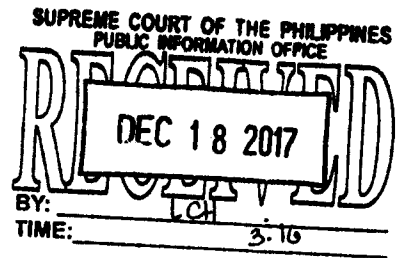




Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**



**MAERSK-FILIPINAS CREWING, INC.  
 and AP MOLLER SINGAPORE PTE  
 LTD.,**

Petitioners,

- versus -

**ROSEMARY G. MALICSE (Legal wife  
 of the deceased seafarer Efren B.  
 Malicse, representing the latter's estate),**  
 Respondent.

**G.R. Nos. 200576 & 200626**

Present:

SERENO, *CJ*, Chairperson,  
 LEONARDO-DE CASTRO,  
 DEL CASTILLO,  
 JARDELEZA, and  
 TIJAM, *JJ*.

Promulgated:

**NOV 20 2017**

X ----- X

**DECISION**

**SERENO, *CJ*:**

Before this Court is a Petition for Review on Certiorari,<sup>1</sup> seeking a reversal of the Court of Appeals (CA) Decision and Resolution,<sup>2</sup> awarding death benefits, moral and exemplary damages, and attorney's fees to respondent Rosemary G. Malicse as the beneficiary of the deceased seafarer, Efren B. Malicse.

The antecedent facts are as follows:

For the tenth time,<sup>3</sup> Efren was employed as an able-bodied seaman by petitioner AP Moller Singapore Pte., Ltd. for a term of nine months through its agency, Maersk-Filipinas Crewing, Inc.<sup>4</sup> At the time of his employment, he had already passed his pre-employment medical examination and was declared fit to work.

<sup>1</sup> *Rollo*, pp. 3-40.

<sup>2</sup> *Id.* at 49-61, 65-68; The CA Decision and Resolution dated 21 October 2011 and 7 February 2012 in CA-G.R. SP Nos. 03832-MIN and 03841-MIN were penned by Associate Justice Edgardo T. Lloren, with Associate Justices Romulo V. Borja and Carmelita Salandanan-Manahan concurring.

<sup>3</sup> *CA rollo* (Vol. I), p. 167; Certification issued by Maersk-Filipinas Crewing, Inc.

<sup>4</sup> *Rollo*, p. 132; Contract of Employment dated 11 January 2007.

Four months later, on 20 May 2007, Efren complained of a fever and headache while on board *Maersk Tide*. When paracetamol, bed rest, and tetracycline administered by the vessel's medical staff did not work, he was sent to Clinica Hospital del Atlantico in Panama on 25 May 2007.<sup>5</sup> On 29 May 2007, he died.

The death certificate of Efren stated that he died of "multiple organ dysfunction, Septicemia and Mononucleosis due to Cytomegalovirus."<sup>6</sup> According to the Autopsy Report and the Pathological Report of Dr. Edwin C. Alconel, an anatomical and clinical pathologist of the City Health Office of General Santos City, Efren died of "multiple organ failure secondary to septicemia."<sup>7</sup> Neither party disclaimed that Efren died of septicemia, which is severe blood poisoning or infection.

Petitioners paid Rosemary USD 1,000 representing burial benefits. As for death benefits, they offered her USD 40,000,<sup>8</sup> which was equivalent to half of the death benefits provided by the Collective Bargaining Agreement (CBA) between Maersk and Singapore Organization of Seamen, the union to which her husband belonged.<sup>9</sup> When she demanded a full copy of the CBA, as well as a copy of the International Transport Workers Federation Standard Collective Agreement (ITF Agreement)<sup>10</sup> from petitioners, the latter refused.

Consequently, Rosemary filed a Complaint<sup>11</sup> before the Executive Labor Arbiter (LA) for death benefits, moral and exemplary damages, and attorney's fees. Petitioners responded that the death of her husband was not caused by a work-related illness. Rosemary countered by arguing that according to the ITF Agreement, she was entitled to death benefits regardless of the cause of Efren's death.

In its Decision dated 26 February 2009,<sup>12</sup> the LA sustained the claim of Rosemary that the labor union of her husband was an affiliate of the ITF. The LA held that the ITF Agreement should prevail over the CBA and the 2000 Philippine Overseas Employment Administration Standard Employment Contract for Seafarers (POEA-SEC). The ITF Agreement, said the LA, had a more beneficial provision on granting death benefits since it awards claims regardless of the seafarer's cause of death.

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<sup>5</sup> *Rollo*, p. 133; Official Log of *Maersk Tide* entered on 25 May 2007.

<sup>6</sup> *Id.* at 134.

<sup>7</sup> *CA rollo* (Vol. 1), pp. 176, 178; 179-181.

<sup>8</sup> *Id.* at 44, 151.

<sup>9</sup> *Id.* at 204-226; Memorandum of Collective Agreement Between Maersk Shipping Singapore Pte. Ltd. and Singapore Organisation of Seamen.

<sup>10</sup> *Id.* at 227-258; ITF Standard Collective Agreement of 1 January 2006.

<sup>11</sup> *Rollo*, pp. 109-110.

<sup>12</sup> *CA rollo* (Vol. 1), pp. 42-50; the Decision in OFW CASE NO. SRAB-12-(M)-04-00003-08 was penned by Executive Labor Arbiter Tomas B. Bautista, Jr.

The LA granted death benefits of USD 82,500 to Rosemary and ordered petitioners to pay her moral damages of PHP 5 million, exemplary damages of PHP 3 million, and 10% attorney's fees.

Petitioners appealed<sup>13</sup> before the National Labor Relations Commission (NLRC). Rosemary likewise appealed and demanded payment for loss of income and interest on her monetary claims. The NLRC dismissed the appeals. Both parties moved for reconsideration, but to no avail.

In its Resolution dated 29 June 2010,<sup>14</sup> the NLRC held that the LA correctly appreciated the applicability of the ITF Agreement. In addition, the NLRC declared that petitioners had the burden of proving that Efren had died of a non-compensable illness. Finding that petitioners had failed to discharge such burden, the NLRC affirmed the ruling of the LA with the modification that moral and exemplary damages be reduced to ₱100,000 and ₱50,000, respectively.

Petitioners and respondent separately filed Petitions for Certiorari<sup>15</sup> before the CA, with essentially the same arguments as those raised *a quo*. At the outset, the appellate court issued a Temporary Restraining Order<sup>16</sup> and a Writ of Preliminary Injunction<sup>17</sup> in favor of petitioners.

After perusing the merits of the main case, the CA found no grave abuse of discretion on the part of the NLRC. In its assailed Decision dated 21 October 2011, the CA maintained that petitioners were liable to Rosemary for full death benefits and damages, but that she was not entitled to additional compensation in the form of income losses and interest claims. The dispositive portion reads in part:<sup>18</sup>

Maersk-Filipinas Crewing, Inc., with its corporate officers and directors and its foreign principal A.P. Moller Singapore PTE. LTD., are hereby adjudged jointly and solidarily liable in the payment of eighty thousand US Dollars (USD 80,000.00) payable in its equivalent in Philippine currency computed at the prevailing rate of exchange at the time of payment as indemnity pursuant to the ITF Standard Collective Agreement. Moral and exemplary damages are hereby awarded to Rosemary G. Malicse in the amounts of ₱100,000.00 and ₱50,000.00, respectively, or a total of ₱150,000.00. Ten percent (10%) of the total monetary award is further awarded to Rosemary G. Malicse as attorney's fees.

**SO ORDERED.**

<sup>13</sup> Id. at 259-310; Notice of Appeal with Memorandum of Appeal filed by petitioners; and Memorandum of Partial Appeal filed by respondent.

<sup>14</sup> Id. at 52-59; the Resolution dated 29 June 2010 in NLRC No. MAC-06-010898-09OFW(M) was penned by Presiding Commissioner Bario-Rod M. Talon with Commissioners Proculo T. Sarmen and Dominador B. Medroso, Jr., concurring.

<sup>15</sup> CA rollo (Vol. I), pp. 1-34; CA rollo (Vol. II), pp. 2-39.

<sup>16</sup> CA rollo (Vol. I), pp. 375-376; Resolution dated 14 October 2010.

<sup>17</sup> Id. at 436-437; Resolution dated 4 January 2011.

<sup>18</sup> Rollo, pp. 60-61.

The CA echoed the appreciation of the NLRC that employers have the burden of proof in showing that the seafarer died from a non-compensable illness. Based on the records, the appellate court ruled that petitioners had failed to show that they were not liable to pay respondent's claims for death benefits.

Petitioners and respondent unsuccessfully moved for reconsideration.<sup>19</sup> Petitioners have therefore filed the instant Petition for Review on Certiorari, questioning the grant of death benefits and damages, as well as the applicability of the ITF Agreement. Respondent has waived her right to comment on this petition.<sup>20</sup>

Before this Court are questions of law. We are tasked to evaluate the applicability of the following contracts: the POEA-SEC, the CBA, and the ITF Agreement. Corollary to that issue, this Court outlines and applies the burdens of proof involved in seafarers' claims for death benefits.

#### RULING OF THE COURT

##### *The Applicability of the POEA-SEC, the CBA, and the ITF Agreement*

The entitlement to disability benefits of seafarers on overseas work is a matter governed not only by medical findings, but also by law and contract.<sup>21</sup> By contract, the POEA-SEC and the CBA bind seafarers and their employers.<sup>22</sup> An overriding instrument, such as the instant ITF Agreement, also forms part of the covenants of the parties to each other.<sup>23</sup>

In awarding death benefits to Rosemary in the amount of USD 82,500, the LA, the NLRC, and the CA cited Section 19 of the ITF Agreement, *viz*:

If a Seafarer dies through any cause, whilst in the employment of the Company, or arising from her/his employment with the Company, including death from natural causes or death occurring whilst travelling to or from the vessel, or as a result of marine or other similar peril, the Company shall pay the sums specified in the attached schedule [US\$82,500 in Annex 2] to the widow or children or parents and to each dependent child up to a maximum of 4 (four) under the age of 21. x x x.

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<sup>19</sup> Id. at 70-92.

<sup>20</sup> Id. at 144-146, 155-156; Manifestation filed on 29 June 2012; Resolution dated 28 November 2012.

<sup>21</sup> *Tagalog v. Crossworld Marine Services, Inc.*, G.R. No. 191899, 22 June 2015, 759 SCRA 632.

<sup>22</sup> *Vergara v. Hammonia Maritime Services, Inc.*, 588 Phil. 895 (2008).

<sup>23</sup> *Magsaysay Maritime Corp. v. Panogalinog*, G.R. No. 212049, 15 July 2015, 763 SCRA 140.

However, before claimants may avail themselves of the benefits provided by Section 19 of the ITF Agreement, they must comply with Section 1:

This agreement sets out the standard terms and conditions applicable to all Seafarers serving on any Ship in respect of which there is in existence a Special Agreement (“the Special Agreement”) made between the Union, an affiliate of the International Transport Workers’ Federation (the ITF) and the Company who is the Owner/Agent of the Ship.

The following are the conditions for the applicability of the ITF Agreement: (1) the seafarer is a member of a union, (2) which is affiliated with the ITF, (3) that has entered into a special agreement with petitioners.

The parties have not disputed the first requisite. As regards the other two, the LA, the NLRC, and the CA only made the following pronouncement:<sup>24</sup>

[p]er ITF Standard collective agreement, of which the union is an affiliate, does (sic) not make any distinction as to the kind of death of the covered seafarer.

Noticeably, the labor tribunals made a generalization without citing their sources. They failed to point to specific evidence showing that Efren’s labor union was affiliated with the ITF. Neither did the LA, the NLRC, or the CA allude to a special agreement between the union or the ITF and petitioners. Therefore, this Court will not automatically conclude that the seafarer is entitled to the benefits given under the ITF Agreement premised on the unreferenced determination of the labor tribunals.<sup>25</sup>

Perusing now the records before us, we find that none of the pieces of evidence adduced by the parties has depicted with clarity the relationship of Efren’s labor union – Singapore Organisation of Seamen – with the ITF. Furthermore, none of the documents herein portray that petitioners entered into any special agreement. In this light, we find grave abuse of discretion on the part of the CA for awarding the death benefits provided by the ITF Agreement sans any proof of the applicability thereof.


Given that the ITF Agreement is not an overriding instrument in this case, we apply the minimum acceptable terms in a seafarer's employment contract provided by the POEA-SEC.<sup>26</sup> However, in *Legal Heirs of Deauna*

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<sup>24</sup> *Rollo*, p. 53; *CA rollo* (Vol. I), pp. 45, 55.

<sup>25</sup> *NFD International Manning Agents v. National Labor Relations Commission*, 590 Phil. 436 (2008); *OSM Shipping Phil. Inc. v. Dela Cruz*, 490 Phil. 392 (2005).

<sup>26</sup> *Tamin v. Magsaysay Maritime Corp.*, G.R. No. 220608, 31 August 2016.



*v. Fil-Star Maritime Corp.*,<sup>27</sup> we clarified that beneficial CBA clauses prevail over the POEA-SEC:

More importantly, the **special clauses on collective bargaining agreements must prevail over the standard terms and benefits** formulated by the POEA in its Standard Employment Contract. A contract of labor is so impressed with public interest that the more beneficial conditions must be endeavored in favor of the laborer. This is in consonance with the avowed policy of the State to give maximum aid and full protection to labor as enshrined in Article XIII of the 1987 Constitution. (Emphasis supplied)

We then proceed to an inquiry into whether or not the compensability clauses in the CBA provide greater death benefits to the seafarer than those granted under the POEA-SEC.

Section 20(A)(1) of the POEA-SEC provides that in case of the work-related death of a seafarer during the term of his contract, the employer shall pay his beneficiaries the “Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment.”

On the other hand, Section 25(1) of the CBA states that petitioners shall pay compensation to a seafarer for any death arising from an accident equivalent to USD 80,000.<sup>28</sup> Section 25(5) further provides that if a seafarer “dies from natural causes or illness while in the employment of the Company, the Company shall pay fifty percent of the quantum payable for death x x x.”<sup>29</sup>

Comparing these two provisions, the CBA clearly provides higher death benefits of USD 80,000. However, the cause of death of the seafarer must be due to an accident; otherwise, his beneficiaries would receive only USD 40,000. That amount is lower than the benefit granted by the POEA-SEC, which is USD 50,000. But before beneficiaries may receive compensation under the POEA-SEC, there must be substantial evidence that the seafarer died of a work-related illness.<sup>30</sup>

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<sup>27</sup> 688 Phil. 582, 601 (2012).

<sup>28</sup> *CA rollo* (Vol. I), p. 215.

<sup>29</sup> *Id.* at 216.

<sup>30</sup> Section 20(A) (1) of the POEA-SEC reads:

SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR DEATH

1. In case of **work-related death** of the seafarer, during the term of his contract the employer shall pay his beneficiaries x x x. (Emphasis supplied)

Thus, respondent is entitled to the more beneficial provision of the POEA-SEC if his death is proven to have been work-related. Otherwise, the CBA's provision on the grant of USD 40,000 regardless of the cause of death will apply. The labor tribunals, therefore, should have ascertained whether or not Efren's death was caused by a work-related illness.

### ***Burden of Proof in Compensation Proceedings for Seafarers***

In its assailed Decision, the CA sustained the appreciation of the NLRC that petitioners failed to show that Efren died from a non-compensable illness. For the CA, petitioners were "less than convincing in their denial of liability to their deceased employee."<sup>31</sup>

The CA believes that employers have the duty to prove that a seafarer died from a non-compensable illness. However, in numerous cases, this Court has explained that "whoever claims entitlement to the benefits provided by law should establish his rights to the benefits by substantial evidence."<sup>32</sup> Hence, the claimants of death benefits, and not the employers, carry the burden of proof.<sup>33</sup> We elucidated in *Quizora v. Denholm Crew Management (Philippines), Inc.* as follows:

At any rate, granting that the provisions of the 2000 POEA-SEC apply, the disputable presumption provision in Section 20(B) **does not allow him to just sit down and wait for respondent company to present evidence to overcome the disputable presumption of work-relatedness of the illness.** Contrary to his position, he still has to substantiate his claim in order to be entitled to disability compensation. He has to prove that the illness he suffered was work-related and that it must have existed during the term of his employment contract. **He cannot simply argue that the burden of proof belongs to respondent company.** (Emphases supplied)

Therefore, in resolving the death claims of respondent, the CA proceeded from an incorrect legal framework, which this Court must rectify. After all, in a petition under Rule 45 of the Rules of Court, what we review


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<sup>31</sup> *Rollo*, p. 58.

<sup>32</sup> *Jebsen Maritime, Inc. v. Ravena*, 743 Phil. 371, 388 (2014) reads:

In *Cootauco v. MMS Phil. Maritime Services, Inc.*, we categorically declared that whoever claims entitlement to the benefits provided by law should establish his rights to the benefits by substantial evidence. We reiterated this ruling in *Wallem Maritime Services, Inc. v. Tanawan*, *Andrada v. Agemar Manning Agency, Inc.*, *Crew and Ship Management International, Inc. v. Soria*, *Philman Marine Agency, Inc. v. Cabanban*, and *Manota v. Avantgarde Shipping Corporation*, to name a few. In the case of a seafarer claiming entitlement to disability benefits under the provisions of the POEA-SEC, this burden of proof obviously lies with the seafarer. (Citations omitted)

<sup>33</sup> *Nonay v. Bahia Shipping Services, Inc.*, G.R. No. 206758, 17 February 2016, citing *Dohle-Philman Manning Agency, Inc. v. Heirs of Gazingan*, G.R. No. 199568, 17 June 2015, 759 SCRA 209; *Teekay Shipping Phils., Inc. v. Jarin*, 737 Phil. 102 (2014); *Ayungo v. Beamko Shipmanagement Corp.*, G.R. No. 203161, 26 February 2014, 717 SCRA 538.



are the legal errors that the CA may have committed in the assailed decision.<sup>34</sup>

The correct approach in adjudging claims of seafarers for death and disability benefits is to determine whether the claimants have proven the requisites of compensability<sup>35</sup> under Section 32-A of the POEA-SEC, viz: (1) the seafarer's work must have involved the risks described therein; (2) the disease was contracted as a result of the seafarer's exposure to the described risks; (3) the disease was contracted within a period of exposure and under such factors necessary to contract it; and (4) there was no notorious negligence on the part of the seafarer.

Here, respondent has failed to satisfy the required positive propositions on compensability. First, she did not describe the tasks performed by Efren on board *Maersk Tide*.<sup>36</sup> While his employment contract identified him as an able-bodied seaman, none of the documents on record enumerated his particular duties. Respondent did not even explain how his work environment caused his fever and headache, and how these conditions worsened into the alleged fatal illness.

Second, given the dearth of evidence as regards Efren's actual job, there was absolutely no showing of how his duties or tasks contributed to the development of his illness. Therefore, there could be no basis to conclude that his multiple organ failure secondary to septicemia was contracted as a result of his exposure to the risks of his trade.

The instant case is similar to *Covita v. SSM Maritime Services, Inc.*<sup>37</sup> In that case, we said that by failing to prove the nature of the work of the seafarer, logically, the claimants would not be able to prove the work-relatedness of his illness.

A reading of petitioner's above-quoted allegations to prove the work-relatedness of her husband's chronic renal failure shows that they are mere general statements with no supporting documents or medical records. She **failed to show the nature of Rolando's work as a Bosun on board the vessel since there was no specific description of Rolando's daily tasks or his working conditions which could have caused or aggravated his illness.** Her claim that Rolando's working conditions were characterized by stress, heavy workload and overfatigue were mere self-serving allegations which are not established by any evidence on record. In fact,

<sup>34</sup> *Javier v. Philippine Transmarine Carriers, Inc.*, 738 Phil. 374 (2014).

<sup>35</sup> *Tumasa v. Abacast Shipping Co., Inc.*, G.R. No. 229779, 17 April 2017; *Jebsens Maritime, Inc. v. Babol*, 722 Phil. 828 (2013); *Magsaysay Maritime Services v. Laurel*, 707 Phil. 210 (2013); *Casomo v. Career Philippines Shipmanagement, Inc.*, 692 Phil. 326 (2012).

<sup>36</sup> *Rollo*, p. 109. The Amended Complaint of respondent reads:

11. Position per contract: Ableseaman

x x x x

10. Nature of Work/Position Actually Performed: n/a

<sup>37</sup> G.R. No. 206600, 7 December 2016.



petitioner alleged that one of the main causes of kidney failure is high blood pressure due to stress, however, there was nothing on record to show that Rolando was suffering from high blood pressure during his seven day's employment in the vessel. Bare allegations do not suffice to discharge the required quantum of proof of compensability. The beneficiaries must present evidence to prove a positive proposition. (Emphasis supplied).

Given that none of the labor tribunals made a factual determination of the work assignments of Efren as an able-bodied seaman, this Court finds an utter lack of basis for granting the POEA-SEC's USD 50,000 death benefits to respondent.

Nonetheless, as earlier explained, respondents are still entitled to claim the death benefits provided by the CBA. Section 25(5) thereof grants USD 40,000 regardless of whether the seafarer died of a work-related illness, provided that he died while in the employment of petitioners. In the case at bar, none of the parties dispute that Efren died of multiple organ failure secondary to septicemia caused by severe infection on 29 May 2007 or during the term of his contract with petitioners.

Therefore, petitioners were correct to offer respondent only USD 40,000. Based on their uncontested narrative, they had already proposed the payment of that sum to Rosemary as early as the negotiations preceding the filing of the claims before the LA.

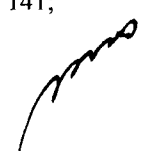
We find this circumstance an exercise in good faith on the part of petitioners. It would negate the imposition upon them of moral and exemplary damages, as well as attorney's fees.<sup>38</sup> These forms of indemnity may only be imposed on a concrete showing of bad faith or malice on the part of petitioners.<sup>39</sup>

**WHEREFORE**, the assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP Nos. 03832-MIN and 03841-MIN are hereby **REVERSED** and **SET ASIDE**, and a new one **ENTERED** ordering petitioners to jointly and severally pay respondent the death benefits of Efren B. Malicse amounting to USD 40,000.00 or its peso equivalent at the time of payment, which shall earn legal interest at the rate of six percent (6%) per annum from the finality of this Decision until fully paid.

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<sup>38</sup> *Balatero v. Senator Crewing (Manila), Inc.*, G.R. Nos. 224532 & 224565, 21 June 2017; *Carcedo v. Maine Marine Philippines, Inc.*, G.R. No. 203804, 15 April 2015, 755 SCRA 543; *Legal Heirs of Deauna v. Fil-Star Maritime Corp.*, 688 Phil. 582 (2012).

<sup>39</sup> *Olaybal v. OSG Shipmanagement Manila, Inc.*, G.R. No. 211872, 22 June 2015, 760 SCRA 221; *Heirs of Dela Cruz v. Philippine Transmarine Carriers, Inc.*, G.R. No. 196357, 20 April 2015, 756 SCRA 141; *Abante v. KJGS Fleet Management Manila*, 622 Phil. 761 (2009).



**SO ORDERED.**



**MARIA LOURDES P. A. SERENO**  
Chief Justice, Chairperson

WE CONCUR:

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

*Mariano C. Del Castillo*  
**MARIANO C. DEL CASTILLO**  
Associate Justice

*Francis H. Jardeleza*  
**FRANCIS H. JARDELEZA**  
Associate Justice

*Noel Gimenez Tijam*  
**NOEL GIMENEZ TIJAM**  
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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice