



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC
PHILIPPINES,

OF

THE

G.R. No. 208183

Petitioner,

Present:

- versus -

LEONEN, J., *Chairperson*,
LAZARO-JAVIER,
ZALAMEDA,*
LOPEZ, J., and
KHO, JR., *JJ.*:

LT. COL. GEORGE ABONITO
RABUSA, SG-25, MA. DEBBIE
AREVALO RABUSA, and FELIX
AREVALO,

Respondents.

Promulgated:

AUG 31 2022

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DECISION

LOPEZ, J., *J.*:

To recover the unexplained or ill-gotten wealth allegedly amassed by a public officer under Republic Act (*R.A.*) No. 1379, it is upon the Republic to prove the allegations in its complaint. It is, therefore, imperative that “the operative act on how and in what manner the public officer participated in amassing ill-gotten wealth be demonstrated through preponderance of evidence.”¹

Before this Court is the Petition for Review on *Certiorari*² under Rule 45 of the Rules of Court filed by the Republic of the Philippines (*Republic*),

* Designated additional member in lieu of Associate Justice Mario V. Lopez, per Raffle dated March 28, 2022.

¹ *Republic of the Philippines v. Cuenca, et al.*, 829 Phil. 139, 173 (2018) [Per J. Tijam, First Division].

² *Rollo*, pp. 11-43.

Ⓟ

assailing the Decision³ dated November 26, 2012 and the Resolution⁴ dated June 25, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 95545. The CA Decision affirmed the Decision⁵ dated December 14, 2009 of the Regional Trial Court, Branch 59, Makati City (RTC), which dismissed the Petition for Forfeiture of Unlawfully Acquired Properties against Lt. Col. George Abonito Rabusa (Rabusa), Ma. Debbie Arevalo Rabusa (Ma. Debbie), and Felix Arevalo (collectively, *Rabusa, et al.*), for failure to prove culpability by preponderance of evidence.

Antecedents

The basic antecedents are no longer disputed.

The present action stems from a Petition for Forfeiture of Unlawfully Acquired Properties under R.A. No. 1379, as amended, with verified urgent *ex parte* application for the issuance of a writ of preliminary attachment⁶ filed by the Republic against Rabusa, *et al.* on December 6, 2004.

The petition alleged that Rabusa was in continuous active service as an officer of the Armed Forces of the Philippines (AFP) since March 15, 1981.⁷ As a requirement for service, he has submitted his sworn declarations in his Statements of Assets, Liabilities and Net Worth (SALN), which reveal that his total government salary and income from other sources earned from the years 1990-2003⁸ amounted to ₱13,579,433.60. Rabusa also disclosed that his spouse, respondent Ma. Debbie received her partial inheritance and some other donations amounting to ₱4,120,000.00. Meanwhile, Rabusa's total personal and family expenses totaled ₱21,025,854.60. Considering that his total expenses manifestly exceeded his total income, the Republic asserts that Rabusa was spending more than what can be legitimately sustained. In fact, in the years 1998, 2000, 2001, 2002, and 2003, his reported expenses were remarkably and consistently higher in contrast to his reported salary and income from other sources.⁹

Such inconsistencies prompted the Office of the Ombudsman to conduct an investigation, which yielded the following as having remained undeclared by Rabusa in his SALNs,¹⁰ to wit:

³ Penned by Associate Justice Socorro B. Inting (now a member of this Court), with Associate Justices Jose C. Reyes, Jr. (a retired member of this Court) and Mario V. Lopez (now a member of this Court), concurring; *id.* at 45-54.

⁴ *Id.* at 56-57.

⁵ Penned by Judge Winlove M. Dumayas; *id.* at 262-269.

⁶ *Rollo*, pp. 58-88.

⁷ *Id.* at 61.

⁸ *Id.* at 89-135.

⁹ *Id.* at 63.

¹⁰ *Id.* at 64-73.

1. Subscribed and paid-up capital shares amounting to ₱1,000,000.00 by virtue of being stockholders and members of the Board of Directors of Arevalo, Rabusa, Templora, Inc. (*ARTI*), together with his spouse Ma. Debbie;
2. The following vehicles registered under his name: **(1) 1978 Toyota Corolla with Plate Number NNU 647, MV File No. 1328-85888, Engine No. 12RM-036018, Chassis No. ET 130-905363; (2) 1997 Toyota Corolla with Plate Number UTB 513, MV File No. 1366-33934, Engine No. 4A-L1917194, Chassis No. AE101-9093537**, valued at ₱350,000.00. Petitioner likewise believes that the **2002 Isuzu Trooper Wagon with Plate Number XAE 573** valued at ₱1,200,000.00 registered in the name of Ma. Debbie, is also owned by Rabusa;¹¹
3. Capital contributions and savings under Armed Forces and Police Savings and Loan Association, Inc. (*AFPSLAI*) Account Number 610-01-187742-7 under his name, and 630-01-409-084-3 under Ma. Debbie's name, amounting to ₱10,542,730.44;
4. The following accounts in the following financial institutions owned and maintained by Rabusa, Ma. Debbie, and their children, amounting to around ₱10,000,000.00, particularly:

Security Bank Corporation

Account Name	Account Number
George Rabusa	0515-340448-200 (PhP)
George Rabusa	0513-360320-001 (PhP)
George Abonito Rabusa	0515-326141-001 (PhP)
George Rabusa/Debbie Arevalo Rabusa	0513-332307-001 (PhP)
George Rabusa/Debbie Arevalo Rabusa	0513-332309-201 (PhP)
George Rabusa/Debbie Arevalo Rabusa	0515-332307-551 (USD)
George Rabusa/Debbie Arevalo Rabusa	0515-332307-552 (USD)
George Rabusa/Debbie Arevalo Rabusa	0515-332307-200 (USD)
George Rabusa/Debbie Arevalo Rabusa	0515-332307-201 (USD)
George Rabusa/Debbie Arevalo Rabusa	0513-332304-201 (PhP)
George Rabusa/Debbie Arevalo Rabusa	0513-332305-201 (PhP)
Debbie Arevalo Rabusa	51550154115 (PhP)

¹¹ *Id.* at 149-180.

Land Bank of the Philippines

Account Name	Account Number
George Rabusa	0556003904 (PhP)

Bank of the Philippine Islands

Account Name	Account Number
Debbie A. Rabusa	0296128623 (PhP)
Debbie A. Rabusa	0296170107 (PhP)

5. Total premiums amounting to US\$132,485.00 paid by Rabusa and Ma. Debbie for the insurance of their two daughters with Philippine American Life and General Insurance Company (*Philam*):

Date Paid	Name of Insured	Policy No.	Amount of Premium Paid (in USD)
February 13, 2004	Diana A. Rabusa	1003550245	64,755.00
February 13, 2004	Dorothy Grace Arevalo Rabusa	1003550254	67,730.00
Total Premium Payment			132,485.00

6. A house and lot located in San Antonio Heights, Sto. Tomas, Batangas, valued at ₱1,600,000.00, registered under the name of Rabusa's father-in-law, respondent Felix.

Aside from the foregoing ill-gotten properties, funds, and investments which remain undeclared, the petitioner likewise calls into attention that Rabusa and his family made several travels to different countries from years 1993 to 2004, the expenses of which approximately amounted to ₱1,000,000.00:¹²

George A. Rabusa

Date	Flight Number		Port
June 11, 2004	Northwest Airlines 001	Arrival	Narita
May 2, 2002	Northwest Airlines 027	Arrival	
December 17, 2001	Singapore Airlines 074	Arrival	Singapore
December 2, 2001	Singapore Airlines 076	Arrival	Singapore
November 18, 2001	CX 905	Arrival	Hongkong
June 2, 2001	LH 744	Arrival	Bangkok

¹²*Id.* at 70-73; 156-163.

February 12, 2001	Singapore Airlines 72	Arrival	Singapore
January 5, 2001	Singapore Airlines 076	Arrival	Singapore
November 4, 2001	Singapore Airlines 076	Arrival	Singapore
September 16, 2000	Thai Airways 620	Arrival	Bangkok
October 25, 1998	Singapore Airlines 074	Arrival	Singapore
October 24, 1996	Philippine Airlines 741	Arrival	France
June 2, 1996	Philippine Airlines 741	Arrival	France
April 28, 1994	Singapore Airlines 072	Arrival	Singapore
July 30, 1993	Philippine Airlines 502	Arrival	Singapore

Ma. Debbie A. Rabusa

Date	Flight Number		Port
May 27, 2004	Northwest Airlines 002	Departure	
June 5, 2002	Northwest Airlines 071	Arrival	Nagoya
February 28, 2002	Northwest Airlines 027	Arrival	Tokyo
December 17, 2001	Singapore Airlines 074	Arrival	Singapore
October 14, 2001	Northwest Airlines 071	Arrival	Nagoya
September 4, 2001		Arrival	Bangkok
May 11, 2001	Northwest Airlines 071	Arrival	Tokyo
December 30, 2000		Arrival	Bangkok
October 28, 2000		Arrival	Sydney
August 13, 2000	Philippine Airlines 504	Arrival	Singapore
May 15, 2000	Philippine Airlines 504	Arrival	Singapore
May 31, 1999	Philippine Airlines 104	Arrival	Los Angeles
April 28, 1999	Philippine Airlines 504	Arrival	Singapore
October 25, 1998	Singapore Airlines 074	Arrival	Singapore
June 11, 1998		Arrival	Bangkok
October 24, 1996	Philippine Airlines 741	Arrival	France
June 2, 1996	Philippine Airlines 735	Arrival	France
April 30, 1995	Philippine Airlines 307	Arrival	Hong Kong

Daniel George A. Rabusa

Date	Flight Number		Port
December 17, 2001	British Airways 031		
May 15, 2000	Philippine Airlines 504	Arrival	Singapore
May 31, 1999	Philippine Airlines 103	Arrival	Los Angeles

Diana Grace and Dorothy Grace A. Rabusa

Date	Flight Number		Port
December 17, 2001	Singapore Airlines 074	Arrival	Singapore
May 11, 2001	Northwest Airlines 071	Arrival	Tokyo
May 15, 2000	Philippine Airlines 504	Arrival	Singapore
May 31, 1999	Philippine Airlines 103	Arrival	Los Angeles

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In sum, Rabusa, *et al.* allegedly accumulated funds and properties in the aggregate amount of ₱43,096,081.99. Being manifestly out of proportion to Rabusa's declared salary and other lawful income, the Republic prayed that such undeclared amounts should be classified as unlawfully acquired and thus declared forfeited in its favor.¹³

For his part, Rabusa contended, *inter alia*, that their lifestyle and assets are acceptable and amply substantiated, as their expenses were reasonably augmented by Ma. Debbie's partial inheritance and accumulated donations from her father in the amount of ₱4,120,000.00, as well as her salary from her employment at Art Net Café and Tri-Alpha, earning ₱15,000.00 and ₱45,000.00 per month, respectively. He further explained that he secured a loan from the Bank of the Philippine Islands in the amount of ₱1,500,000.00 and, that sometime on June 3, 1999, he sold his property located at Better Living Subdivision, Parañaque City. While he admitted to having AFPSLAI accounts, the contents were not solely his personal funds but of close relatives and friends, which were deposited in his personal account to take advantage of the high 20% interest rate offered to members of the AFP.¹⁴

As for Felix, he justified his expenses due to his retirement pay of around ₱950,000.00, upon retiring from the Makati Police Force in 1995, as well as obtaining a personal loan of ₱5,000,000.00.¹⁵

After trial on the merits, the RTC rendered a Decision¹⁶ on December 14, 2009, dismissing the petition for failure of the petitioner to prove liability by preponderance of evidence. Essentially, the RTC found Rabusa, *et al.*'s explanations satisfactory in overcoming the Republic's argument that the latter had illegally amassed and accumulated wealth more than that declared in the presented SALNs. The dispositive portion of the decision reads:

WHEREFORE, premises considered, for failure of petitioner Republic of the Philippines to prove by preponderance of evidence the liability of respondents Lt. Col. George Rabusa, Debbie Rabusa and Felix [Arevalo], the present petition is hereby DISMISSED. Likewise, the counterclaim filed by respondents against petitioner is hereby DISMISSED. Accordingly, the Preliminary Attachment issued in the above-entitled case is hereby lifted and set aside. No pronouncement as to cost.

SO ORDERED.¹⁷

Undeterred, the Republic immediately sought for reconsideration of the Decision but the same was denied in an Order¹⁸ dated March 3, 2010. In

¹³ *Id.* at 73-74.

¹⁴ *Id.* at 46-47.

¹⁵ *Id.* at 47.

¹⁶ *Id.* at 262-269.

¹⁷ *Id.* at 269.

¹⁸ *Id.* at 272-273.

denying the motion, the RTC concluded that the allegations and arguments interposed by petitioner were a mere rehash of its previous pleadings which were already passed upon in its December 14, 2009 Decision.

The Republic elevated the matter to the CA, arguing in the main that the evidence of Rabusa, *et al.* failed to overcome the inescapable conclusion that their accumulated wealth and assets were unlawfully acquired and were thus subject to forfeiture proceedings. Specifically, the Republic raised the following issues in support of its appeal, namely: (1) whether the court *a quo* gravely erred in holding that the subject bank accounts are inadmissible as evidence in the forfeiture of unlawfully acquired properties case (Civil Case No. 04-1321) for being violative of R.A. No. 1405, or the “Bank Secrecy Act of 1995,” considering that the money in the subject bank accounts is the subject of litigation; (2) whether the court *a quo* gravely erred in ruling that the millions of pesos deposited in the AFPSLAI accounts of respondents do not solely belong to them but also to their close relatives and friends as investments; and lastly, (3) whether the court *a quo* gravely erred in ruling that the premium payment of US\$64,755.00 for Philam Insurance Policy No. 1003550245 in the name of Diana Rabusa and the premium payment of US\$67,730.00 for Philam Insurance Policy No. 1003550254 in the name of Dorothy Grace Rabusa came from the monetary gifts on various occasions of one Corazon Pitcock to Rabusa and Ma. Debbie.¹⁹

Acting thereon, the CA affirmed the RTC ruling in its assailed Decision²⁰ dated November 26, 2012. The *fallo* provides:

WHEREFORE, the decision appealed from is **AFFIRMED**.

SO ORDERED.²¹

The CA resolved that the bank accounts of Rabusa, *et al.* were protected under R.A. No. 1405. Given the arbitrary demand to disclose the contents thereof, the CA considered the inquiry as a fishing expedition to utilize evidence against Rabusa, *et al.* The CA also observed that some accounts in question were foreign deposits falling under R.A. No. 6426, or the “Foreign Currency Deposit Act of the Philippines,” which explicitly allows the disclosure of a foreign deposit account only by virtue of a written permission of the depositor, which was plainly lacking in this case. Concurring with the RTC, the CA found no irregularity in terms of the AFPSLAI investments and the premium payments. With respect to the AFPSLAI investments, the CA granted credence to the affidavits of certain friends and relatives of Rabusa, *et al.*, who were presented in open court to confirm that they had deposited funds with the latter in order to take advantage of the high interest rate accorded to AFP members. It similarly concurred with the RTC that the premium payments for the Philam Insurance Policies in the name of Diana

¹⁹ See Appellant’s Brief; *id.* at 182-183.

²⁰ *Rollo*, pp. 45-54.

²¹ *Id.* at 53.

Dorothy Grace Rabusa were paid from the monetary gifts given by a certain Corazon Pitcock, a godparent of Rabusa and Ma. Debbie.

A Motion for Reconsideration was filed by the Republic, which was denied in a Resolution²² dated June 25, 2013 for raising the same grounds already passed upon in the assailed Decision.

Hence, the instant petition.

In response, Rabusa, *et al.* filed their Comment²³ asserting that the petition is a mere rehash and reiteration of previous arguments squarely resolved by the RTC and on appeal by the CA. They point out that all the issues raised in the petition are questions of fact, which remain outside the purview of this Court.

On the other hand, the Republic postures in its Reply²⁴ that the issues raised concern questions of law, particularly, whether the subject accounts fall under the exceptions of R.A. No. 1405, as the RTC itself issued several court orders *via subpoena duces tecum* and *ad testificandum* authorizing its examination. It argues that the accounts themselves were the subject matter of the litigation, as the contents thereof were the very subject of forfeiture, having been illegally amassed. It insists that no concrete evidence was presented by the respondents to substantiate their claim that the questioned money belonged to investors taking advantage of the AFP interest rate. Lastly, it reiterates that the relation between the monetary gifts from Corazon Pitcock and the premium payments had not been established, there being no relation between the two.

The Issues

Petitioner relies on the following grounds for review, as follows:

I.

The Court of Appeals seriously erred in ruling that none of the exceptions to the confidentiality of bank deposits apply in the present case;

II.

The Court of Appeals seriously erred in concurring with the findings and conclusion of the RTC that the millions of pesos deposited in Rabusa and Debbie's AFPSLAI accounts do not solely belong to them;

III.

The Court of Appeals seriously erred in concurring with the findings and conclusion of the RTC that the premium payments for the Philam Insurance

²² *Id.* at 56-57.

²³ *Id.* at 326-338.

²⁴ *Id.* at 369-382.

Policies in the names of Diana and Dorothy Grace Rabusa came from the monetary gifts on various occasions of one Corazon Pitcock.²⁵

Our Ruling

This Court resolves to partially grant the petition.

Prefatorily, a cursory reading of the present petition would reveal that it is a mere rehash of factual issues and arguments raised by petitioner in its appeal which had already been fully passed upon and considered by the CA. Whether respondents' bank accounts are covered by the exceptions laid down in R.A. No. 1405, the question of ownership of the AFPSLAI accounts, or the source of the premium payments, are undeniably questions of fact that would necessitate a reassessment and reexamination of the evidence. As a matter of sound practice and procedure, this Court defers and accords finality to the factual findings of trial courts. To do otherwise would defeat the very essence of Rule 45 and would convert the Court into a trier of facts, which is not its intended purpose under the law.

At any rate, such rule admits of exceptions. In *The Insular Life Assurance Company, Ltd. v. Court of Appeals*,²⁶ this Court held that it may review the evidence on record should the assailed judgment be based on a misapprehension of facts, or when the CA overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.²⁷ After a careful assessment, this Court finds that such exceptions are attendant in the instant case which shall be further elaborated below. Discernibly, a review of the factual matters is warranted.

This Court shall now resolve the substantial merits of the case.

The CA erred in ruling that the bank deposits do not fall under any of the exceptions of R.A. No. 1405. On the other hand, the foreign currency deposits are protected under R.A. No. 6426.

R.A. No. 1405 statutorily grants persons with a legitimate expectation of privacy on their respective bank accounts. Its rationale is to "discourage private hoarding, as well as to give encouragement to people to deposit their money in banking institutions, so that the same may be properly utilized by banks in authorized loans and thereby assist in the country's economic development."²⁸ At its core, the law establishes the basic state policy on the confidentiality of bank deposits as institutionalized in Section 2, to wit:

²⁵ *Id.* at 25.

²⁶ 472 Phil. 11 (2004) [Per J. Austria-Martinez, Second Division].

²⁷ *Id.* at 23.

²⁸ R.A. NO. 1405, SEC. 2.

Section 2. All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, *except* upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.

The law itself is not ironclad and prescribes four exceptions when records of deposits may be disclosed. These are under any of the following instances: (1) upon written permission of the depositor; (2) in cases of impeachment; (3) upon order of a competent court in the case of bribery or dereliction of duty of public officials; or (4) when the money deposited or invested is the subject matter of the litigation.²⁹ While subsequent statutory enactments³⁰ have expanded the scope of exceptions to this policy, the secrecy of bank deposits still lies as the general rule, falling as it does within the legally-recognized zones of privacy.

This Court is well aware of the caveat that there is much disfavor towards construing these exceptions in such a manner that would authorize unlimited discretion on the part of the government or of any party seeking to enforce these exceptions and inquire into bank deposits. Should there be any doubts in upholding the absolutely confidential nature of bank deposits against affirming the authority to inquire into such accounts, then these must be resolved in favor of confidentiality. Such a stance would persist, unless Congress passes a law reversing the general state policy of preserving the absolutely confidential nature of Philippine bank accounts.³¹

In taking exclusion from the coverage of the confidentiality rule, petitioner argues that the bank accounts maintained by respondents fall under two such exceptions, namely: (1) the examination thereof is upon order of a competent court in cases of bribery or dereliction of duty of public officials; and (2) the money deposited or invested is the subject matter of the litigation.

Anent the first exception, petitioner applies the ruling in *Philippine National Bank v. Gancayco*,³² wherein this Court clarified that cases of unexplained wealth are analogous to cases involving bribery and dereliction of duty, both involving public officials. Effectively, cases of unexplained wealth are now considered as an additional exception to the rule under R.A. No. 1405 making bank deposits confidential. By analogy, since a petition under R.A. No. 1379 pertains to the forfeiture of unexplained wealth and illegally acquired properties, the exception prescribed under R.A. No. 1405

²⁹ *Id.*

³⁰ Presidential Decree No. 1972, as amended by R.A. No. 7653; R.A. No. 3019; R.A. No. 9160.

³¹ *Mendoza v. Court of Appeals*, 802 Phil. 314, 352 (2016) [Per J. Perez, En Banc].

³² 122 Phil. 503, 508 (1965) [Per J. Regala, En Banc].

shall perforce apply to it. In the instant case, given that the court orders in the form of various *subpoena duces tecum* and *ad testificandum* all involve the forfeiture of unexplained wealth, the RTC was in error for not allowing petitioner to examine, inquire, and look into the subject accounts.

As to the second exception, petitioner contends that the amounts deposited into the subject accounts are the very subject matter of the litigation. It explains that it filed the forfeiture case in order to examine the legitimacy of respondents' acquisition of the properties, as well as to inquire into the whereabouts of the amount acquired by them illegally. Further, it seeks to recover the money deposited in the subject accounts, which are both allegedly ill-gotten and unexplained.

Petitioner's arguments deserve credence. There is compelling reason to hold that the subject accounts fall squarely within the statutory exceptions and may be subject to disclosure.

Regarding the first exception, this Court held in *Gancayco* that the phrase pertaining to the exception "upon order of a competent court in cases of bribery or dereliction of duty of public officials"³³ is not exclusive. In fact, similar cases, such as cases of unexplained wealth, may be considered as falling within the same exception. This Court's pronouncements are enlightening:

With regard to the claim that disclosure would be contrary to the policy making bank deposits confidential, it is enough to point out that while [S]ection 2 of Republic Act No. 1405 declares bank deposits to be "absolutely confidential," it nevertheless allows such disclosure in the following instances: (1) Upon written permission of the depositor; (2) In cases of impeachment; (3) Upon order of a competent court in cases of bribery or dereliction of duty of public officials; (4) In cases where the money deposited is the subject matter of the litigation. **Cases of unexplained wealth are similar to cases of bribery or dereliction of duty and no reason is seen why these two classes of cases cannot be excepted from the rule making bank deposits confidential. The policy as to one cannot be different from the policy as to the other. This policy expresses the notion that a public office is a public trust and any person who enters upon its discharge does so with the full knowledge that his life, so far as relevant to his duty, is open to public scrutiny.**³⁴ (Emphasis supplied)

As the present proceedings on unexplained wealth are now encompassed within the exceptions of R.A. No. 1405, the court orders subject of this case clearly fall within the orders that would enable the examination of the respondents' bank accounts as contemplated in the first exception. Thus, it comes clear that this Court cannot sustain the RTC and the CA's theory that there was no court order authorizing the examination of the subject accounts. On the contrary, records prove that the RTC issued several *subpoenas duces*

³³ *Philippine National Bank v. Gancayco, supra.*

³⁴ *Id.* at 507-508.

tecum and *ad testificandum*,³⁵ which required certain persons to testify in open court and present certain documents which pertain not only to the existence and identity of the subject accounts, but to the contents found therein. Interestingly, despite admitting them on formal offer, it ultimately refused to pass upon and consider the same. Given the existence and the propriety of the *subpoenas*, the evidence procured through the same should have been duly considered by the lower courts.

With respect to the second exception, this Court finds that the subject accounts themselves are the very “subject matter of litigation.”

What constitutes the very subject matter of litigation pursuant to the exceptions in Section 2 of R.A. No. 1405 has been amply addressed in *Union Bank of the Philippines v. Court of Appeals*:³⁶

Petitioner contends that the Court of Appeals confuses the “cause of action” with the “subject of the action.” In *Yusingco vs. Ong Hing Lian*, petitioner points out, this Court distinguished the two concepts.

x x x “The cause of action is the legal wrong threatened or committed, while the object of the action is to prevent or redress the wrong by obtaining some legal relief; but the subject of the action is neither of these since it is not the wrong or the relief demanded, the subject of the action is the matter or thing with respect to which the controversy has arisen, concerning which the wrong has been done, and this ordinarily is the property or the contract and its subject matter, or the thing in dispute.”

The argument is well-taken. We note with approval the difference between the “subject of the action” from the “cause of action.” **We also find petitioner’s definition of the phrase “subject matter of the action” is consistent with the term “subject matter of the litigation,” as the latter is used in the Bank Deposits Secrecy Act.**

In *Mellon Bank, N.A. vs. Magsino*, where the petitioner bank inadvertently caused the transfer of the amount of US\$1,000,000.00 instead of only US\$1,000.00, the Court sanctioned the examination of the bank accounts where part of the money was subsequently caused to be deposited:

x x x Section 2 of [Republic Act No. 1405] allows the disclosure of bank deposits in cases where the money deposited is the subject matter of the litigation. **Inasmuch as Civil Case No. 26899 is aimed at recovering the amount converted by the Javiers for their own benefit, necessarily, an inquiry into the whereabouts of the illegally acquired amount extends to whatever is concealed by being held or recorded in the name of persons other than the one responsible for the illegal acquisition.**

³⁵ *Rollo*, pp. 226-261.

³⁶ 378 Phil. 1177 (1999) [Per J. Kapunan, First Division].

Clearly, *Mellon Bank* involved a case **where the money deposited was the subject matter of the litigation since the money so deposited was the very thing in dispute.** x x x³⁷ (Emphases supplied; citations omitted)

Guided by the foregoing, it is plain that the subject accounts themselves are the very subject matter of the litigation, as the inquiry is directed at the whereabouts and recovery of the money that had allegedly been illegally acquired and now subject to forfeiture. While it may be argued that the subject matter of the action ought to be the amount sought to be forfeited and not the subject accounts *per se*, this Court in *Mellon Bank, N.A. v. Judge Magsino*³⁸ clarified that the exceptions under R.A. No. 1405 allows the disclosure of bank accounts or deposits where the allegedly illegally acquired money is deposited:

Private respondents' protestations that to allow the questioned testimonies to remain on record would be in violation of the provisions of Republic Act No. 1405 on the secrecy of bank deposits, is unfounded. **Section 2 of said law allows the disclosure of bank deposits in cases where the money deposited is the subject matter of the litigation.** Inasmuch as Civil Case No. 26899 is aimed at recovering the amount converted by the Javiers for their own benefit, necessarily, **an inquiry into the whereabouts of the illegally acquired amount extends to whatever is concealed by being held or recorded in the name of persons other than the one responsible for the illegal acquisition.**³⁹ (Emphases supplied; citations omitted)

This Court hastens to add that the allowance of such an inquiry similarly extends to the bank accounts not only of the public official, but also to their spouse and other dependents. Therefore, the subject accounts of Rabusa and Ma. Debbie may be subject to disclosure. Such pervasiveness of the inquiry is clearly warranted, if only to prevent persons in government who illegally acquire property from evading investigation by simply placing property in the possession of or in the name of other persons. This is consistent with the directive of Section 8 of Republic Act No. 3019,⁴⁰ as amended:

Section 8. *Prima facie* evidence of and dismissal due to unexplained wealth. – If in accordance with the provisions of Republic Act Numbered One thousand three hundred seventy-nine, a public official has been found to have acquired during his incumbency, whether in his name or in the name of other persons, an amount of property and/or money manifestly out of proportion to his salary and to his other lawful income, that fact shall be a ground for dismissal or removal. Properties in the name of the spouse and dependents of such public official may be taken into consideration, when their acquisition through legitimate means cannot be satisfactorily shown. **Bank deposits in the name of or manifestly excessive expenditures incurred by the public official, his spouse or any of their dependents including but not limited**

³⁷ *Id.* at 1182-1183.

³⁸ 268 Phil. 697 (1990) [Per C.J. Fernan, Third Division].

³⁹ *Id.* at 713.

⁴⁰ Entitled "*Anti-Graft and Corrupt Practices Act.*"

to activities in any club or association or any ostentatious display of wealth including frequent travel abroad of a non-official character by any public official when such activities entail expenses evidently out of proportion to legitimate income, shall likewise be taken into consideration in the enforcement of this section, notwithstanding any provision of law to the contrary. The circumstances hereinabove mentioned shall constitute valid ground for the administrative suspension of the public official concerned for an indefinite period until the investigation wealth is completed.⁴¹

Indeed, the circumstances of this case ineluctably fall within the scope of the exceptions under R.A. No. 1405. Consonant thereto, this Court cannot agree with the CA's supposition that the examination of the respondents' bank accounts was but a mere fishing expedition to pin liability on them.⁴²

The ruling in *BSB Group, Inc. v. Go*⁴³ further sustains this conclusion. In this case, respondent, who was employed by petitioner as cashier, was charged with qualified theft for allegedly taking the checks of petitioner's customers and depositing the same into her personal account instead of being turned over to the company's coffers. On the premise that respondent had encashed customers' checks and deposited the corresponding amounts thereof to her personal account, the prosecution moved for the issuance of *subpoenas duces tecum* and *ad testificandum* against the respective managers or records custodians of respondent's banks. In finding the evidence adduced by the respective *subpoenas* inadmissible, this Court ruled that they were deemed irrelevant as they pertained to the contents of the accounts where respondent had deposited the proceeds of the misappropriated checks, and *not* the amounts she had taken in line with her prosecution for qualified theft of cash. Elsewise stated, the evidence procured from the *subpoenas* were deemed inadmissible for irrelevance as the accounts sought to be examined had no relation to the criminal charges filed against respondent for qualified theft of cash:

What indeed constitutes the subject matter in litigation in relation to Section 2 of R.A. No. 1405 has been pointedly and amply addressed in *Union Bank of the Philippines v. Court of Appeals*, in which the Court noted that the inquiry into bank deposits allowable under R.A. No. 1405 must be premised on the fact that the money deposited in the account is **itself** the subject of the action. Given this perspective, we deduce that **the subject matter of the action in the case at bar is to be determined from the indictment that charges respondent with the offense, and not from the evidence sought by the prosecution to be admitted into the records.** In the criminal Information filed with the trial court, respondent, unqualifiedly and in plain language, is charged with qualified theft by abusing petitioner's trust and confidence and stealing cash in the amount of P1,534,135.50. The said Information makes no factual allegation that in some material way involves the checks subject of the testimonial and documentary evidence sought to be suppressed. Neither do the allegations in said Information make mention of

⁴¹ As amended by BP Blg., 195, March 16, 1982.

⁴² *Rollo*, p. 51.

⁴³ 626 Phil. 501 (2010) [Per J. Peralta, Third Division].



the supposed bank account in which the funds represented by the checks have allegedly been kept.

In other words, it can hardly be inferred from the indictment itself that the Security Bank account is the ostensible subject of the prosecution's inquiry. Without needlessly expanding the scope of what is plainly alleged in the Information, **the subject matter of the action in this case is the money amounting to P1,534,135.50 alleged to have been stolen by respondent, and not the money equivalent of the checks which are sought to be admitted in evidence.** Thus, it is that, which the prosecution is bound to prove with its evidence, and no other.

It comes clear that the admission of testimonial and documentary evidence relative to respondent's Security Bank account serves no other purpose than to establish the existence of such account, its nature and the amount kept in it. It constitutes an attempt by the prosecution at an impermissible inquiry into a bank deposit account the privacy and confidentiality of which is protected by law. On this score alone, the objection posed by respondent in her motion to suppress should have indeed put an end to the controversy at the very first instance it was raised before the trial court.⁴⁴ (Emphases supplied)

Prescinding therefrom, it cannot be denied that the inquiry into the subject accounts of respondents have a direct correlation to the subject matter of this case. Operatively, this would allow the disclosure of the subject accounts pursuant to the exceptions under R.A. No. 1405. As astutely pointed out by Senior Associate Justice Marvic M.V.F. Leonen, “it is when the inquiry has no relation to the subject matter of a pending case, or to the type of cases recognized as exceptions by Section 2 of Republic Act No. 1405, that the secrecy of bank deposits must be upheld. Otherwise, a similar inquiry would fall within the scope of Republic Act No. 1405, Section 2’s exceptions.”⁴⁵

The respondents’ foreign currency deposit accounts, however, face a different fate. Uncontroverted by respondents are their four foreign currency deposit accounts, namely:

Name	Account Number
George Rabusa/Debbie Arevalo Rabusa	0515-332307-551 (USD)
George Rabusa/Debbie Arevalo Rabusa	0515-332307-552 (USD)
George Rabusa/Debbie Arevalo Rabusa	0515-332307-200 (USD)
George Rabusa/Debbie Arevalo Rabusa	0515-332307-201 (USD)

It is beyond cavil that for foreign currency deposits, such as the US dollar deposits in this case, the applicable law is R.A. No. 6426, or the “Foreign Currency Deposit Act of the Philippines,” and not R.A. No. 1405, as affirmed in *Intengan v. Court of Appeals*.⁴⁶ Designed to encourage foreign lenders and investors, the lone exception to the nondisclosure of foreign currency deposits

⁴⁴ *Id.* at 516-517.

⁴⁵ See Separate Concurring Opinion, p. 5.

⁴⁶ 427 Phil. 293, 304 (2002) [Per J. De Leon, Jr., Second Division].

under R.A. No. 6426 is disclosure upon the written permission of the depositor.⁴⁷ Section 8 of the law is categorical and subject to no other interpretation:

Section 8. *Secrecy of foreign currency deposits.* – All foreign currency deposits authorized under this Act, as amended by Presidential Decree No. 1035, as well as foreign currency deposits authorized under Presidential Decree No. 1034, are hereby declared as and considered of an absolutely confidential nature and, except upon the written permission of the depositor, in no instance shall foreign currency deposits be examined, inquired or looked into by any person, government official, bureau or office whether judicial or administrative or legislative, or any other entity whether public or private; Provided, however, that said foreign currency deposits shall be exempt from attachment, garnishment, or any other order or process of any court, legislative body, government agency or any administrative body whatsoever.⁴⁸

Glaringly, no such written permission was ever issued by Rabusa and Ma. Debbie consenting to the disclosure of the said foreign currency bank accounts. Therefore, applying Section 8 of R.A. No. 6426, Security Bank cannot be legally compelled to disclose the bank deposits of respondents; otherwise, it may unwittingly expose itself to criminal liability under the same act.

The CA did not err in concurring with the RTC that (a) deposits in the AFPSLAI accounts do not solely belong to respondents; and (b) premium payments for the Philam Insurance Policies were sourced from monetary gifts.

Pertinent in this case are the ownership of the amounts deposited in the AFPSLAI accounts, as well as the source of payment of the Philam Insurance Policies in favor of Rabusa and Ma. Debbie's daughters, Diana and Dorothy Grace Rabusa.

Petitioner argues that other than the self-serving statements in the affidavits of respondent Rabusa and Ma. Debbie's friends and relatives, no concrete evidence was presented by the latter to substantiate their claim that the questioned money did indeed belong to the alleged investors, namely, Menandro Santos, Myrna Dimaano, Sheffered Tan, and Damian Mercado.⁴⁹ While they had submitted affidavits, petitioner insists that they failed to specifically state the amount of their investments; neither did they proffer any documentary evidence as proof of such arrangement. To add, petitioner maintains that there was no clear proof that the premium payments relative to

⁴⁷ R.A. NO. 6426, SEC. 8.

⁴⁸ As amended by PD No. 1035, and further amended by PD No. 1246, promulgated Nov. 21, 1977.

⁴⁹ *Rollo*, pp. 339-342.

the Philam Insurance Policies in favor of Diana and Dorothy Grace Rabusa were paid out from the monetary gifts given by Corazon Pitcock.

Juxtaposing the specific allegations in the petition with petitioner's documentary and testimonial evidence and as against the respondents' documentary and testimonial evidence, this Court agrees with the RTC and the CA that the weight of evidence fails to preponderate in petitioner's favor.

In the present case, it appears that aside from presenting the affidavits of Menandro Santos, Myrna Dimaano, Shefferd Tan, and Damian Mercado disclosing their request to deposit certain amounts to the accounts of Rabusa and Ma. Debbie in order to take advantage of the special interest rate, they were likewise presented to testify in open court during the proceedings in the RTC.⁵⁰ Contrary to petitioner's asseveration, respondents stipulated the respective amounts given by the depositors to wit:

Mr. Damian Mercado contributed ₱3 million
 Mr. Menandro Santos gave ₱2.7 million
 Mr. Shefferd Tan contributed ₱1.5 million
 Mrs. Myrna Dimaano contributed ₱1.5 million
 Parents-in-law likewise gave ₱500,000.00⁵¹

To further fortify respondents' claim, Yolanda Bulanadi, head of the Capital and Savings Account of AFPSLAI, also testified that the common practice of investing other persons' money to avail of the 20% interest rate was indeed sanctioned and permitted by the AFPSLAI.⁵²

With regard to the Philam Insurance Policies, this Court cannot ignore that respondents presented Corazon Pitcock as a witness, who testified in open court that she had indeed made certain monetary gifts on various occasions as godparent to Rabusa and Ma. Debbie when they were married.⁵³ Nominally, no shred of evidence was presented by petitioner to corroborate its claims that such monetary gifts given by Corazon Pitcock were not used towards the payment of the Philam insurance policies.

Towards this end, this Court finds no error in the trial courts' appreciation of the credibility of respondents' witnesses. Nothing on record appears to have been overlooked or misconstrued. Necessarily, the long-settled rule as iterated in *People v. Edaño*⁵⁴ is apropos:

x x x The rule is well established that an impartial tribunal, which has heard and observed a witness testify, is better fitted to pass upon the witness'

⁵⁰ See RTC Decision; *id.* at 266.

⁵¹ *Rollo*, p. 335.

⁵² *Id.* at 266.

⁵³ See RTC Decision; *id.* at 267.

⁵⁴ 159-A Phil. 934 (1975) [Per J. Antonio, Second Division].

credibility. The credibility of witnesses is a matter that the trial court has unequaled competence to consider and decide since it has the opportunity to observe the demeanor of the witnesses on the stand, an opportunity not afforded to the appellate courts; and the findings of the trial court as to the credibility of witnesses as a rule should not be disturbed, and is entitled to great weight, unless there appears in the record some fact or circumstance of weight and influence which has been overlooked by the trial court, or the significance of which has been misconstrued. x x x⁵⁵

For argument's sake, neither can Rabusa and his family's foreign travels be considered as convincing proof of unexplained wealth. Rabusa's travel records from no less than the General Headquarters of the AFP, prove that such travels were considered official. As conclusively found by the RTC, "[R]abusa and the other officers whom he travelled with were afforded international economy class airfare, representation allowance, reimbursable hotel accommodation, daily food allowance, clothing allowance and pre-departure expenses, which were all chargeable against the AFP Budget Appropriations and was subjected to accounting and auditing requirements."⁵⁶ Regrettably, petitioner failed to controvert or rebut such factual findings. In fact, the travel records⁵⁷ presented by petitioner failed to indicate which of Rabusa's trips were official and which were not.

Similarly, a reliance on Ma. Debbie's travel records,⁵⁸ as well as those of daughters Diana and Dorothy Grace,⁵⁹ does not necessarily prove the existence of unexplained wealth. As culled from the records of the Bureau of Investigation (*BI*), an examination thereof could only establish the details of such trips, such as the dates of departure and arrival, the destination, as well as the frequency of travel.

It is quite a stretch to conclude from the evidence presented that the foreign trips taken by Rabusa and his family were beyond their financial capacity, especially since no effort was exerted by petitioner to even determine the exact costs of these frequent trips. In *Pleyto v. Philippine National Police Criminal Investigation and Detection Group*,⁶⁰ this Court cautioned that the "frequency of foreign travel, by itself, is not proof of unexplained wealth of a public official or employee."⁶¹ As already concluded by this Court, Rabusa had other sources of funds apart from his salary as a public official. Likewise settled is the fact that Ma. Debbie was also earning substantial income from her gainful employment at Art Net Café and Tri-Alpha, not to mention her partial inheritance she received from her father.

⁵⁵ *Id.* at 939-940.

⁵⁶ *Rollo*, p. 266.

⁵⁷ *Id.* at 156-157.

⁵⁸ *Id.* at 151-153.

⁵⁹ *Id.* at 158-161.

⁶⁰ 563 Phil. 842 (2007) [Per J. Chico-Nazario, Third Division].

⁶¹ *Id.* at 896.

To further disparage petitioner's arguments, Rabusa cannot be expected to declare the house and lot located in Sto. Tomas, Batangas in his SALN, for the simple reason that such property belonged and was registered under the name of his father-in-law, Felix. Neither was there any showing that Felix was a co-conspirator or a mere conduit in an attempt to conceal the true value of Rabusa's wealth. Plainly, the need for public officials to declare assets in their SALNs does not extend to those registered and owned by other persons. To reiterate, the burden is upon the petitioner to establish that the property in question are actually owned by Rabusa, and prove that the cost is beyond his financial capacity. Unfortunately, petitioner fell short in this regard.

The quantum of evidence required for forfeiture proceedings under R.A. No. 1379 is preponderance of evidence. Thus, the RTC should have considered evidence from respondents' subject accounts. Necessarily, a remand of the case to the RTC is proper.

To recall, this case is one involving the forfeiture of assets and properties that have been illegally acquired or misappropriated, pursuant to R.A. No. 1379. More particularly, the law provides for the procedure by which forfeiture proceedings may be instituted against public officers or employees who "[have] acquired during his [or her] incumbency an amount of property which is manifestly out of proportion to his [or her] salary as such public officer or employee and to his [or her] other lawful income and the income from legitimately acquired property, [which] property shall be presumed prima facie to have been unlawfully acquired."⁶²

In *Garcia v. Sandiganbayan, et al.*,⁶³ this Court re-affirmed the principle that forfeiture proceedings under R.A. No. 1379 are civil in nature. In an earlier case,⁶⁴ this Court confirmed:

A study of the provisions of Republic Act No. 1379 readily discloses that the proceeding for forfeiture is civil in nature and not criminal, as claimed by the petitioners. A test has been suggested to determine whether the proceeding for forfeiture is civil or criminal, thus:

"... Forfeiture proceedings may be either civil or criminal in nature, and may be in rem or *in personam*. If they are under a statute such that if an indictment is presented the forfeiture can be included in the criminal case they are criminal in nature, although they may be civil in form; and

⁶² R.A. NO. 1379, SEC. 2.

⁶³ 618 Phil. 346, 361 (2009) [Per J. Velasco, Jr., Third Division].

⁶⁴ *Almeda v. Hon. Perez*, 116 Phil. 120 (1962) [Per J. Labrador, En Banc].

where it must be gathered from the statute that the action is meant to be criminal in its nature it cannot be considered as civil. If, however, the proceeding does not involve the conviction of the wrongdoer for the offense charged the proceeding is of a civil nature; and under statutes which specifically so provide, where the act or omission for which the forfeiture is imposed is not also a misdemeanor, such forfeiture may be sued for and recovered in a civil action.” (37 CJS, Forfeiture, Sec. 5. pp. 15-16)

In the first place a proceeding under the Act (Rep. Act No. 1379) does not terminate in the imposition of a penalty but merely in the forfeiture of the properties illegally acquired in favor of the state. (Sec. 6) In the second place the procedure outlined in the law leading to forfeiture is that provided for in a civil action. Thus there is a petition (Sec. 3), then an answer (Sec. 4), and lastly, a hearing. The preliminary investigation which is required prior to the filing of the petition, in accordance with Sec. 2 of the Act, is provided expressly to be one *similar* to a preliminary investigation in a criminal case. If the investigation is only similar to that in a criminal case, but the other steps in the proceedings are those for civil proceedings, it stands to reason that the proceeding is not criminal. Had it been a criminal proceeding there would have been, after a preliminary investigation, a reading of information, a plea of guilty or not guilty, and a trial thereafter, with the publication of the judgment in the presence of the defendant. But these proceedings as above set forth, are not provided for in the law.⁶⁵ (Citations and emphasis omitted)

Connectedly, the quantum of evidence required for forfeiture proceedings under this law are the same with other civil cases—preponderance of evidence.⁶⁶ Section 1, Rule 133 of the Rules of Court is instructive as to how preponderance of evidence is determined:

Section 1. *Preponderance of evidence, how determined.* – In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.⁶⁷

Expounding on the concept of preponderance of evidence, this Court held:

x x x “Preponderance of evidence” is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous

⁶⁵ *Id.* at 125-126.

⁶⁶ *Republic of the Philippines v. Gimenez*, 776 Phil. 233, 252 (2016) [Per J. Leonen, Second Division].

⁶⁷ RULES OF COURT, RULE 133, SEC. 1.

with the term greater weight of the evidence or greater weight of the credible evidence. Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.⁶⁸

Conformably, it is incumbent upon petitioner to prove the allegations in its complaint. It is, therefore, imperative that the operative act on how and in what manner the respondents participated in amassing ill-gotten wealth be demonstrated through preponderance of evidence. In case of failure to do so, petitioner's complaint would merit nothing but denial.⁶⁹

Ultimately, this Court finds that the RTC and the CA validly considered and weighed the evidence regarding respondents' other assets and expenses, namely, the AFPSLAI accounts, the insurance policies, the respondents and their family's travel history, as well as the property belonging to Rabusa's father-in-law, Felix. As painstakingly discussed, Rabusa adequately justified such discrepancies, even readily admitting to his wife's financial capacity and all their recent transactions, which would belie any malicious intent to conceal or to commit any dishonesty to the public.

Nevertheless, the RTC would have more basis on disposing the case based on a preponderance of evidence if it had taken into consideration the evidence adduced from the respondents' subject accounts. As observed by Senior Associate Justice Leonen, the combined contents of such accounts total to over ₱10,000,000.00.⁷⁰

As a final point, this Court recognizes the difficulty in prosecuting a case for corruption, especially when it involves recovering what rightfully belongs to the government and the Republic from the hands of no less than a public official. While petitioner must be commended for its efforts to hold Rabusa accountable for his alleged unexplained wealth and unlawfully acquired properties, it must concede to the judiciary to make a just and complete disposition of the case by adhering to the standards of evidence carved out especially for cases under R.A. No. 1379.

Consequently, a full-blown hearing on the merits is required, including the reception of additional evidence, if needed, from both parties. This Court enjoins the lower court to take on this responsibility in order to meaningfully uphold the rule that public office is a public trust, as this Court is barred from reviewing factual matters.

⁶⁸ *Encinas v. National Bookstore, Inc.*, 485 Phil. 683, 695 (2004) [Per J. Tinga, Second Division].

⁶⁹ *Republic of the Philippines v. Cuenca, et al.*, *supra* note 1, at 173.

⁷⁰ *See Separate Concurring Opinion*, p. 8.

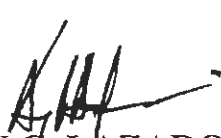
ACCORDINGLY, premises considered, the instant petition is **PARTIALLY GRANTED**. The Decision dated November 26, 2012 and the Resolution dated June 25, 2013 of the Court of Appeals in CA-G.R. CV No. 95545 are **AFFIRMED** with **MODIFICATION**. The case is **REMANDED** to the Regional Trial Court, Branch 59, Makati City for the purpose of reconsidering the evidence on the subject bank accounts of respondents.

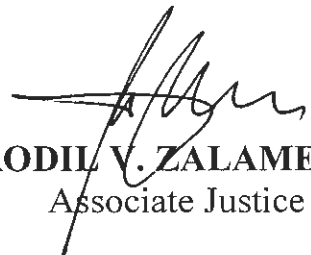
SO ORDERED.


JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR: *See separate concurring*


MARVIC M.V.F. LEONEN
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

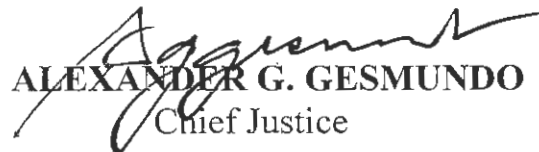
ATTESTATION

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.


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson, Second Division

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