



SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**PUREGOLD PRICE CLUB,  
INC.,**

Petitioner,

— versus —

**COURT OF APPEALS and  
RENATO M. CRUZ, JR.,**

Respondents.

**G.R. No. 244374**

Present:

GESMUNDO, C.J., *Chairperson*  
CAGUIOA,  
LAZARO-JAVIER,  
LOPEZ, M., and  
LOPEZ, J., *JJ.*

Promulgated:

**FEB 15 2022**

*[Signature]*

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**RESOLUTION**

**LOPEZ, M., J.:**

The Court reminds that procedural rules are not to be treated as mere technicalities that may be ignored at will to suit the convenience of a party.<sup>1</sup> The rules were established primarily to provide order to, and enhance the efficiency of, our judicial system.<sup>2</sup> We emphasize these precepts in the present case involving the application of the 60-day period rule in filing a special civil action for *certiorari*.

<sup>1</sup> *Santos v. Court of Appeals*, 275 Phil. 894 (1991).

<sup>2</sup> *Le Soleil Int'l. Logistics Co., Inc., et al. v. Sanchez, et al.*, 769 Phil. 466 (2015).

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### ANTECEDENTS

On January 16, 2013, Puregold Price Club, Inc. (PPCI) hired Renato M. Cruz, Jr. (Renato) as a probationary store head.<sup>3</sup> On July 16, 2013, PPCI appointed Renato as store officer/manager at Puregold Extra Ampid (Puregold Extra) in San Mateo, Rizal.<sup>4</sup> Renato's tasks include the activation of the Intruder Alarm System (IAS) located in the treasury office of the branch before store closure and its deactivation upon store opening. The IAS was programmed to send message alerts on the mobile phones of Renato and two other officers whenever an intruder is detected in the premises. Among them, Renato was the principal officer expected to respond when the IAS sent alerts because he lived nearest to the branch.<sup>5</sup>

On March 16, 2015 at 1:23 a.m., the IAS sounded an intruder alarm and sent messages to Renato and the two other officers but none of them arrived. This prompted security guard Michael Mejaran (SG Mejaran) to send text messages to Renato and the two other officers. Still, no one responded. At 2:35 a.m., the alarm sounded for the second time and message alerts were sent to the phones of Renato and the two other officers followed by text messages from SG Mejaran. Again, no one answered. At around 5:13 a.m., Renato arrived and asked the guard to open the store. Renato inspected the store interiors but did not see any intruder. Thus, Renato deactivated the alarm. On his way out, Renato took four (4) plastic pails in stock at the store and brought them home for his personal use.<sup>6</sup>

On May 15, 2015, PPCI's Human Resource Manager Jona Pinky J. Cañete (HR Manager Cañete) served Renato with a notice to explain why he should not be dismissed for failing to promptly respond to the IAS and for stealing/taking the plastic pails out of the store. In his reply, Renato admitted the receipt of alerts and text messages but he only saw them after waking up at 5:00 a.m. Anent the alleged stealing, Renato explained that he merely borrowed the pails because there was a scheduled water interruption in their area. Renato even informed SG Mejaran that he took the pails.<sup>7</sup> After the administrative hearing,<sup>8</sup> the PPCI served Renato a notice of termination dated June 16, 2015 for gross and serious omission to do vital management duty and responsibility, serious and willful breach of trust, abuse of position, and stealing.<sup>9</sup>

On February 1, 2016, Renato filed a request for assistance under the Single Entry Approach (SEnA) Program of the National Labor Relations Commission (NLRC) indicating Puregold Extra and Noel Groyon (Groyon) as respondents. The notices of conciliation-mediation conference were sent to the address of

<sup>3</sup> *Rollo*, pp. 365-366.

<sup>4</sup> *Id.* at 367.

<sup>5</sup> *Id.* at 330.

<sup>6</sup> *Id.* at 368-373.

<sup>7</sup> *Id.* at 374-375.

<sup>8</sup> *Id.* at 376-381.

<sup>9</sup> *Id.* at 384.

Puregold Extra at San Mateo, Rizal.<sup>10</sup> At the conferences, HR Manager Cañete and PPCI's counsel Atty. Emma Rhea B. Sadural-Capistrano (Atty. Sadural-Capistrano) attended before the SEnA desk officer.<sup>11</sup> However, the parties failed to reach an amicable settlement. On April 8, 2016, Renato filed a complaint for illegal dismissal against Puregold Extra, Lucio Co.(Co) and Groyon before the Labor Arbiter (LA).<sup>12</sup>

On May 31, 2016, the LA rendered a decision based solely on Renato's position paper because the respondents failed to appear. The LA held that Renato was illegally dismissed and ordered PPCI to pay his back wages and separation pay.<sup>13</sup> On July 15, 2016, Renato moved for the issuance of a writ of execution alleging that the LA's ruling became final and executory after PPCI received a copy of the judgment on July 1, 2016 and did not appeal.<sup>14</sup> On even date, the LA issued a notice of pre-execution conference.<sup>15</sup>

On July 18, 2016, PPCI moved to annul the LA's decision claiming that it was not properly joined as a respondent in the complaint and did not receive summons. As such, the LA did not acquire jurisdiction over PPCI and any decision against it is void.<sup>16</sup> On July 25, 2016, PPCI submitted a supplemental motion with Groyon's affidavit denying receipt of summons.<sup>17</sup> On July 29, 2016, the LA noted the motions without action and pointed out that PPCI's proper remedy is to appeal with the NLRC.<sup>18</sup> Accordingly, PPCI filed on August 8, 2016 a petition to annul the LA's Decision and Order before the NLRC docketed as LER Case No. 08-216-16. PPCI maintained that it had no knowledge of Renato's complaint for illegal dismissal until the receipt of his motion for issuance of writ of execution. PPCI reiterated that it did not receive summons or a copy of the LA's decision. Renato misled the LA and fraudulently impleaded Puregold Extra as his employer, which is different from PPCI. Lastly, PPCI prayed the case be remanded to the LA for mandatory conciliation.<sup>19</sup> In contrast, Renato denied that he committed fraud and explained that he was working at Puregold Extra so he impleaded it as his employer. In any case, the service of summons upon Puregold Extra is sufficient to acquire jurisdiction over PPCI given that its representatives attended SEnA conferences.<sup>20</sup>

On September 8, 2016, the Fourth Division of the NLRC remanded the case for further proceedings for failure of the LA to acquire jurisdiction over PPCI due to improper service of summons,<sup>21</sup> thus:

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<sup>10</sup> Id. at 254-256.

<sup>11</sup> Id. at 167.

<sup>12</sup> Id. at 257-259.

<sup>13</sup> Id. at 119-124.

<sup>14</sup> Id. at 92-94.

<sup>15</sup> Id. at 272.

<sup>16</sup> Id. at 96-97.

<sup>17</sup> Id. at 98-102.

<sup>18</sup> Id. at 103-105.

<sup>19</sup> Id. at 106-118.

<sup>20</sup> Id. at 165-171.

<sup>21</sup> Id. at 172-181.

**WHEREFORE**, the Petition is **GRANTED**. The case is remanded back to the Labor Arbiter a quo for mandatory conciliation and further proceedings.

**SO RESOLVED.**

Dissatisfied, Renato sought reconsideration<sup>22</sup> and the inhibition of the members of division.<sup>23</sup> On October 28, 2016, the NLRC denied Renato's motions.<sup>24</sup> On March 13, 2017, Renato elevated the case through a petition for *certiorari* before the Court of Appeals (CA) docketed as CA-G.R. SP No. 149917.<sup>25</sup> Renato insisted that the service of SENa notices to the address of Puregold Extra in San Mateo, Rizal was sufficient to vest jurisdiction over PPCI.<sup>26</sup> In his petition, Renato stated that he received on January 12, 2017 the NLRC Resolution denying his motion for reconsideration, hence, the petition for *certiorari* was timely filed on March 13, 2017,<sup>27</sup> viz.:

A. Timeliness

1. On **January 12, 2017**, petitioner-appellant **received** the **assailed Resolution** of the fourth division of the National Labor Relations Commission ("NLRC", for short) that was **promulgated on October 28, 2016**. Pursuant to the Rules of Court, this Petition filed this March 13, 2017 (Monday) is within the reglementary period. Attached as **Annex "A"** is an original copy of said resolution.

2. On **September 13, 2016**, undersigned counsel **received** a copy of the **assailed Resolution** of the fourth division-NLRC **promulgated September 8, 2016**. A motion for reconsideration was timely filed by the petitioner on September 19, 2016. Attached as **Annex "B"** is an original copy of said resolution.

Meantime, the LA issued summons dated March 28, 2017 and served it to PPCI's address at Paco, Manila in compliance with the NLRC's Resolutions dated September 8, 2016 and October 28, 2016 which remanded the case for mandatory conciliation.<sup>28</sup> Yet, the parties failed to arrive at any settlement and were ordered to submit their position papers.<sup>29</sup> On January 30, 2018, the LA ruled that PPCI dismissed Renato for just cause with observance of procedural due process.<sup>30</sup> Renato appealed<sup>31</sup> to the NLRC but was denied.<sup>32</sup> On December 2, 2018, the NLRC decision became final and executory absent a timely appeal.<sup>33</sup>

<sup>22</sup> Id. at 182-191.

<sup>23</sup> Id. at 199-203.

<sup>24</sup> Id. at 204-208.

<sup>25</sup> Id. at 23.

<sup>26</sup> Id. at 210-219.

<sup>27</sup> Id. at 210; Id. at 213.

<sup>28</sup> Id. at 319.

<sup>29</sup> Id. at 320-414.

<sup>30</sup> Id. at 415-420.

<sup>31</sup> Id. at 421-426.

<sup>32</sup> Id. at 449-467.

<sup>33</sup> Id. at 470.



On the other hand, the CA gave due course to Renato's petition for *certiorari*. On August 24, 2018, the CA held that there was substantial compliance with the rules on service of summons and that PPCI failed to establish any fraud, which supposedly prevented it from appearing before the LA proceedings.<sup>34</sup> The CA also ratiocinated that PPCI owned and operated Puregold Extra. Relatively, it would be absurd for Puregold Extra not to inform PPCI about Renato's complaint for illegal dismissal. Lastly, the CA ruled that PPCI cannot use technicalities to escape the negative consequences of an adverse decision,<sup>35</sup> viz.:

**WHEREFORE**, the foregoing considered, the instant Petition for Certiorari is **GRANTED**. The Resolutions dated 08 September 2016 and 28 October 2016 of the National Labor Relations Commission (NLRC) in LER Case No. 08-216-16 (NLRC NCR Case No. 04-04239-16) are **ANNULLED** and **SET ASIDE**. Accordingly, We declare that the Decision dated 31 May 2016 of the Labor Arbiter in NLRC NCR Case No. 04-04239-16 had already become **FINAL** and **EXECUTORY**.

**SO ORDERED.**

On September 6, 2018, PPCI moved for reconsideration.<sup>36</sup> On January 29, 2019, the CA denied PPCI's motion.<sup>37</sup> On February 13, 2019, PPCI received the CA's Resolution denying the motion for reconsideration and has fifteen (15) days or until February 28, 2019 to file a petition for review. On February 19, 2019, PPCI moved for an additional period of thirty (30) days from February 28, 2019 or until March 30, 2019 within which to file a petition for review. Also, PPCI paid the docket and other lawful fees and the deposit for costs. On March 15, 2019, however, PPCI filed a petition for *certiorari*.<sup>38</sup>

Mainly, PPCI asserts that the CA's Decision dated August 24, 2018 and Resolution dated January 29, 2019 in CA-G.R. SP No. 149917 were rendered with grave abuse of discretion amounting to lack or excess of jurisdiction. PPCI avers that the CA gravely erred in giving due course to Renato's petition for *certiorari* despite being filed out of time or beyond the 60-day reglementary period. PPCI explains that the Bailiff's Return showed that the counsel of Renato received on December 29, 2016 the NLRC Resolution dated October 28, 2016 denying his motion for reconsideration. As such, Renato had until February 27, 2017 to avail a petition for *certiorari*. However, Renato filed the petition for *certiorari* only on March 13, 2017 or fourteen (14) days late. In his comment, Renato contends that he timely filed his petition for *certiorari* within the 60-day reglementary period reckoned from his receipt on January 12, 2017 of the NLRC Resolution denying his motion for reconsideration. Moreover, Renato insists that PPCI was validly served with summons through Puregold Extra.

<sup>34</sup> Id. at 57-70. Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Japar B. Dimaampao and Henri Jean Paul B. Inting (now both members of the Court).

<sup>35</sup> Id. at 69-70.

<sup>36</sup> Id. at 832-838.

<sup>37</sup> Id. at 71-74.

<sup>38</sup> Id. at 16-56.

**RULING**

The petition is meritorious.

At the outset, it bears emphasis that the proper remedy of an aggrieved party from the CA's decision is a petition for review on *certiorari* under Rule 45 and not a petition for *certiorari* under Rule 65. Specifically, Rule 45 provides that decisions, final orders or resolutions of the CA in any case, i.e., regardless of the nature of the action or proceedings involved, may be appealed to the Court by filing a petition for review on *certiorari*, which would be but a continuation of the appellate process over the original case.<sup>39</sup> Thus, PPCI should have filed a petition for review on *certiorari* under Rule 45 instead of a special civil action for *certiorari* under Rule 65. The PPCI's argument that a petition for *certiorari* is the proper remedy since the CA had no jurisdiction to entertain Renato's petition for *certiorari* filed before it having been filed beyond the 60-day reglementary period deserves scant consideration. There is no reason why such issue could not have been raised on appeal.


However, in accordance with the liberal spirit pervading the Rules of Court and in the interest of justice, the Court has the discretion to treat a petition for *certiorari* as having been filed under Rule 45, especially if filed within the reglementary period for filing a petition for review on *certiorari*.<sup>40</sup> Here, PPCI received on February 13, 2019 the CA's Resolution denying its motion for reconsideration and has fifteen (15) days or until February 28, 2019 to file a petition for review on *certiorari*. Within the 15-day reglementary period, PPCI moved for an additional period of thirty (30) days from February 28, 2019 or until March 30, 2019 within which to file the required petition. Also, PPCI paid the docket and other lawful fees and the deposit for costs. Under Section 2, Rule 45 of the Rules of Court, *'[o]n motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.'* On March 15, 2019, PCCI filed the instant petition for *certiorari* well within the extended period. Taken together, PPCI's petition for *certiorari* may be liberally treated as a petition for review on *certiorari* because it faithfully complied with the provisions of Rule 45 of the Rules of Court. Indeed, PPCI find it more prudent to observe the rules in filing a petition for review on *certiorari* before finally choosing the remedy of *certiorari* as shown in its statement of material dates, to wit:

Data [sic] Showing the Petition is Filed on Time

4. The petitioner received a copy of the Decision of the Court of Appeals on August 30, 2018. It had until September 14, 2018 to file a Motion for Reconsideration.
5. The petitioner filed a Motion for Reconsideration on September 6, 2018.

<sup>39</sup> *Emcor, Inc. v. Sienes*, 615 Phil. 33 (2009), citing *Mercado v. Court of Appeals*, 484 Phil. 438 (2004).

<sup>40</sup> *Id.*, citing *Delsan Transport Lines, Inc. v. Court of Appeals*, 335 Phil. 1066 (1997).



6. The petitioner received a copy of the Resolution denying its Motion for Reconsideration on February 13, 2019. **It had until February 28, 2019 to file a Petition for Review on Certiorari under Rule 45 and until April 14, 2019 to file a Petition for Certiorari under Rule 65.**

7. **Before making the decision under which Rule would it file its petition, the petitioner filed on February 19, 2019 a Motion for Extension of Time to File Petition for Review and paid the docket and other fees on the same day. It prayed for an extension of thirty (30) days from February 28, 2019 or until March 30, 2019 to file a Petition for Review. Petitioner is filing this petition on or before March 30, 2019, although it has chosen to file in under Rule 65.** Simultaneously, petitioner will pay the additional docket fee. (Emphases supplied.)

Anent the merits of the case, the Court agrees with PPCI's argument that the CA erred in giving due course to Renato's petition for *certiorari* for being filed out of time. As the Rule now stands, petitions for *certiorari* must be filed **strictly within sixty (60) days** from notice of judgment or from the order denying a motion for reconsideration. There can no longer be any extension of the 60-day period within which to file a petition for *certiorari*,<sup>41</sup> save in exceptional or meritorious cases anchored on special or compelling reasons.<sup>42</sup> Contrary to Renato's theory, the reglementary period to avail the remedy of *certiorari* must be reckoned on December 29, 2016 or the date his counsel received the NLRC Resolution denying the motion for reconsideration, and not on January 12, 2017 when he allegedly received the assailed resolution. To be sure, the records reveal that Renato's counsel was validly notified of the assailed NLRC Resolution on December 29, 2016,<sup>43</sup> thus:

Bailiff's Return

Atty. Donald V. Diaz  
Copy received by Ms. Shaila Cabagtong on 12-29-16  
Returned on this 29th day of December '16.

*sgd.*  
Romeo S. Gamara  
Bailiff II

<sup>41</sup> *Laguna Metts Corporation v. Court of Appeals*, 611 Phil. 530 (2009). See also Amendments to Rules 41, 45, 58 and 65 of the Rules of Court, A.M. No. 07-7-12-SC, December 4, 2007.

<sup>42</sup> The case of *Thenamaris Philippines, Inc v. Court of Appeals*, 725 Phil. 590 (2014) enumerated the recognized exceptions to the strict application of the 60-day period rule, to wit: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances.

<sup>43</sup> *Rollo*, p. 209.

Verily, when a party is represented by counsel of record, service of orders and notices must be made upon such counsel.<sup>44</sup> Notice to the client or to any other lawyer other than the counsel of record, is not notice in law. Moreover, while decisions, resolutions, or orders are served on both parties and their counsel/representative, for purposes of appeal, the period shall be counted from receipt of such decisions, resolutions, or orders by the counsel or representative of record.<sup>45</sup> Likewise, Section 4(b), Rule III of the 2011 NLRC Rules of Procedure provides that for purposes of appeal, the period shall be counted from receipt of the decisions, resolutions, or orders by the counsel or representative of record.<sup>46</sup>

In the parallel case of *Bello v. National Labor Relations Commission*,<sup>47</sup> the petitioner sought reconsideration from the NLRC's ruling dismissing his complaint for illegal dismissal. On November 4, 1999, the petitioner's counsel received a copy of the NLRC Resolution denying the motion for reconsideration. On June 2, 2000, the petitioner filed a petition for *certiorari* with the CA and claimed that he was only informed on April 18, 2000 about the denial of his motion for reconsideration. The CA dismissed the petition for having been filed beyond the 60-day reglementary period. The petitioner elevated the case to the Court and insisted that he filed the petition for *certiorari* on time. The petitioner argued that the reglementary period must be computed from the moment he was informed about the denial of his motion for reconsideration. However, the Court affirmed the CA's findings and explained that the 60-day period for filing a petition for *certiorari* should be counted from the time petitioner's counsel received the assailed NLRC Resolution denying the motion for reconsideration.

Similarly, in *Cervantes v. City Service Corp.*,<sup>48</sup> the CA dismissed petitioner's special civil action for *certiorari* for having been filed out of time. The CA noted that petitioner's mother received on July 30, 2009 the NLRC Resolution denying his motion for reconsideration. As such, the petitioner had only until September 28, 2009 within which to file the petition. Yet, the petitioner availed the remedy of *certiorari* only on October 7, 2009 or nine (9) days late. Undaunted, the petitioner elevated the case to this Court arguing that the reglementary period must be reckoned from his counsel's receipt of the assailed resolution on November 19, 2009 and not from the date his mother received a copy of thereof. This time, the Court found merit in the petitioner's claim and reiterated that for purposes of appeal, the period shall be counted from receipt of such decisions, resolutions, or orders by the counsel or representative of record and not the party.

Applying these precepts, Renato had sixty (60) days counted from the date his counsel received on December 29, 2016 the NLRC Resolution denying the motion for reconsideration or until February 27, 2017 within which to avail a petition for *certiorari*. As intimated earlier, Renato filed his petition for *certiorari* before the CA only on March 13, 2017 or fourteen (14) days beyond the

<sup>44</sup> *Jovero v. Cerio*, G.R. No. 202466, June 23, 2021; *Changatag v. People*, G.R. No. 228337, March 4, 2020.

<sup>45</sup> *Cervantes v. City Service Corp.*, 784 Phil. 694-702 (2016).

<sup>46</sup> Introducing New Provisions and Amendments to the 2011 NLRC Rules of Procedure, as Amended, NLRC *En Banc* Resolution No. 005-14, March 11, 2014.

<sup>47</sup> 559 Phil. 20-29 (2007).

<sup>48</sup> 784 Phil. 694-702 (2016).

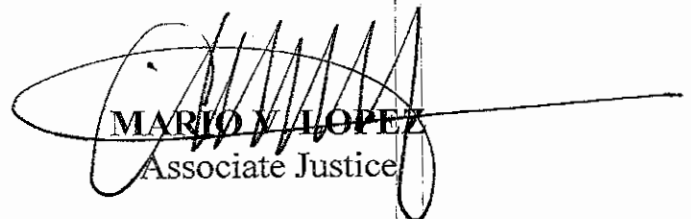


reglementary period. Notably, Renato neither moved for an extension of time nor presented any exceptional or meritorious circumstance to exempt him from the strict application of the 60-day period rule.

All told, the CA should have dismissed outright Renato's petition for *certiorari* for being time-barred. The CA should not have delved into the issues concerning the propriety of the NLRC Resolutions dated September 8, 2016 and October 28, 2016 which remanded the case to the LA for further proceedings. Suffice it to say that these resolutions perfunctorily become final and executory absent a timely petition for *certiorari*. On this point, the Court reiterates that a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land. All the issues between the parties are deemed resolved and laid to rest once a judgment becomes final and executory; execution of the decision proceeds as a matter of right as vested rights are acquired by the winning party. Just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the decision on the case. After all, a denial of a petition for being time-barred is tantamount to a decision on the merits. Otherwise, there will be no end to litigation, and this will set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.<sup>49</sup>


**FOR THESE REASONS**, the petition is **GRANTED**. The Court of Appeals' Decision dated August 24, 2018 in CA-G.R. SP No. 149917 is **REVERSED**. The National Labor Relations Commission's Resolutions dated September 8, 2016 and October 28, 2016 are **REINSTATED**.

**SO ORDERED.**

  
MARIO V. LOPEZ  
Associate Justice

<sup>49</sup> *Thenamaris Philippines, Inc v. Court of Appeals, supra*, citing *Labao v. Flores*, 649 Phil. 213 (2010).

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson


  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**JHOSEF LOPEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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