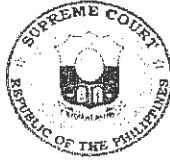


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**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

**ROMULO B. ESTRELLA, CESAR
B. ANGELES, AND FELIXBERTO
D. AQUINO, ACTING IN BEHALF
OF AND AS REPRESENTATIVES
OF HEIRS OF BARTOLOME P.
RIVERA, ELEUTERIA RIVERA,
PELAGIA R. ANGELES,
MODESTA R. ANGELES,
VENANCIO R. ANGELES, FELIPE
R. ANGELES, FIDELA ANGELES,
JOSEFA R. AQUINO, GREGORIO
AQUINO, AND ROSAURO R.
AQUINO OF THE MAYSILLO
ESTATE,**

G.R. No. 257814

Petitioners,

-versus-

SM PRIME HOLDINGS, INC.,
Respondent.

**TRI-CITY LANDHOLDINGS,
INC.,**
Intervenor-Respondent.

x-----x

**TRI-CITY LANDHOLDINGS,
INC.,**
Petitioner,

-versus-

**SM PRIME HOLDINGS, INC. AND
ROMULO B. ESTRELLA, CESAR
B. ANGELES, AND FELIXBERTO
D. AQUINO, ACTING IN BEHALF
OF AND AS REPRESENTATIVES
OF HEIRS OF BARTOLOME P.
RIVERA, ELEUTERIA RIVERA,
PELAGIA R. ANGELES,
MODESTA R. ANGELES,
VENANCIO R. ANGELES,
FELIPE R. ANGELES, FIDELA
ANGELES, JOSEFA R. AQUINO,
GREGORIO AQUINO, AND
ROSAURO R. AQUINO OF THE
MAYSILO ESTATE,**

Respondents.

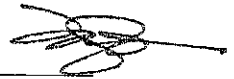
G.R. No. 257944

Present:

LEONEN, *J.*, *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
GAERLAN,* and
LOPEZ, J., *JJ.*

Promulgated:

FEB 20 2023



X-----X

DECISION

LOPEZ, J., J.:

This Court resolves two consolidated Petitions for Review on *Certiorari*¹ filed under Rule 45 of the Rules of Court, assailing the Minute Resolution² and the Resolution³ of the Court of Appeals (CA), which dismissed the appeal of Romulo B. Estrella, Cesar B. Angeles, and Felixberto D. Aquino (*Estrella et al.*).

The Antecedents

The property subject of this controversy formerly formed part of the Maysilo Estate left by Gonzalo Tuason. In previously decided cases, it was determined that the Maysilo Estate originally measured 1,660.26 hectares, stretching across Caloocan City, Valenzuela, and Malabon, covered by five mother titles, including Original Certificate of Title (OCT) No. 994. The

* vice J. Kho who recused from the case, per raffle dated February 8, 2023.

¹ *Rollo* (G.R. No. 257814), pp. 9–33; *Rollo* (G.R. No. 257944), pp. 3–41.

² *Rollo* (G.R. No. 257814), p. 35. Dated January 31, 2020.

³ *Id.* at 37–53. The October 27, 2021 Resolution in CA-G.R. CV No. 113161 was penned by Associate Justice Elihu A. Ybañez, and concurred in by Associate Justices Pablito A. Perez and Gabriel T. Robeniol of the Former Special Fourteenth Division, Court of Appeals, Manila.

Maysilo Estate was eventually subdivided into smaller lots that were sold to different persons and entities.⁴ One of the disputed lots is Lot 7-C-2 or Lot 23-A, the property subject of this case (*subject property*).⁵

On September 27, 1961, a group composed of Eleuteria Rivera, Bartolome P. Rivera, Josefa R. Aquino, Gregorio R. Aquino, Pelagia R. Angeles, Modesta R. Angeles, Venancio R. Angeles, Felipe R. Angeles, Fidela R. Angeles, and Rosauro R. Aquino, claiming to be the heirs of Maria de la Concepcion Vidal (*Vidal*), a co-owner to the extent of 1-189/1000% of the properties covered by OCT Nos. 982, 983, 984, 985, and 994 filed a petition with the Court of First Instance of Rizal docketed as Land Registration Case No. 4557. They prayed for the substitution of their names on OCT No. 994 in the place of Vidal. The Court of First Instance granted this in an Order.⁶

Thereafter, the purported heirs of Vidal filed a petition for the partition and accounting of the Maysilo Estate covered by OCT No. 994, allegedly registered on April 19, 1917, docketed as Civil Case No. C-424 in Branch 120, Regional Trial Court (*RTC*), Caloocan City. The *RTC* granted the petition and appointed three commissioners to determine the most equitable division of the properties. However, no recommendation was submitted.⁷

The subdivided lots were eventually sold to various transferees and became the subject of investigations both in the executive and legislative branches. Several cases were also instituted between parties claiming to have derived their respective titles from one mother title, OCT No. 994, but with two different registration dates, April 19, 1917, and May 3, 1917.

In 2006, Estrella et al. initiated a civil case for the nullification and cancellation of Transfer Certificate of Title (*TCT*) No. 326321 against Gotesco Investment, Inc. (*Gotesco*) before the *RTC*.⁸ Estrella et al. claimed to be the court-appointed representatives of the heirs of Vidal, namely: Bartolome P. Rivera, Eleuteria Rivera, Pelagia R. Angeles, Modesta R. Angeles, Venancio R. Angeles, Felipe R. Angeles, Fidela Angeles, Josefa R. Aquino, Gregorio Aquino, and Rosauro R. Aquino. They asserted that the alleged heirs of Vidal are the real owners of several parcels of land covered by OCT No. 994, including the subject property.⁹

Estrella et al. averred that on April 15, 1998, they learned that the City of Caloocan sold the subject property identified as Lot No. 7-C-2 to Gotesco

⁴ *CLT Realty Development Corporation v. Hi-Grade Feeds Corporation*, 768 Phil. 149 (2015) [Per J. Perez, First Division].

⁵ *Rollo* (G.R. No. 257814), p. 12.

⁶ *Id.* at 70. Dated May 25, 1962. Citing *Phil-Ville Development and Housing Corporation v. Bonifacio*, 666 Phil. 325, 330 (2011) [Per J. Villarama, Jr., Third Division].

⁷ *Id.*

⁸ *Rollo* (G.R. No. 257944), pp. 71-77.

⁹ *Id.* at 72-73.

that was allegedly covered by TCT No. 54327 issued in the name of the City Government of Caloocan. They added that Gotesco secured a new title, TCT No. 326321, covering the subject property though the alleged heirs of Vidal never sold it.¹⁰

On March 14, 2016, Tri-City Landholdings, Inc. filed a Petition for Intervention.¹¹ It claimed that on October 19, 2009, a Deed of Assignment¹² was executed by Estrella et al., as assignors, and Tri-City, as assignee, transferring the subject property in exchange for shares of Tri-City and Platinum Global Properties, Inc. (*Platinum*).¹³

Upon receipt of the summons, Gotesco filed a Motion to Dismiss.¹⁴ However, this was denied by the RTC in an Order.¹⁵ Hence, trial ensued.

Meanwhile, on March 18, 2016, SM Prime Holdings, Inc. (*SM Prime*) filed a Motion for Substitution,¹⁶ requesting that it be allowed to substitute for Gotesco as defendant in the case due to the sale of the subject property in their favor.¹⁷ SM Prime was permitted to substitute Gotesco.¹⁸ SM Prime opposed the Petition for Intervention of Tri-City, arguing that Tri-City had no ground to intervene because the subject OCT No. 994 in this case was registered on April 19, 1917, while the purported mother title from which Tri-City allegedly derived its right was OCT No. 994 registered on May 3, 1917.¹⁹ SM Prime also prayed for the outright dismissal of the complaint pursuant to the court decision declaring OCT No. 994 dated April 19, 1917 null and void.²⁰

In an Order,²¹ the RTC admitted the Petition for Intervention filed by Tri-City and denied the Motion to Dismiss filed by SM Prime for lack of merit.²²

On October 30, 2017, SM Prime filed a Demurrer to Evidence.²³ In an Order,²⁴ the RTC granted the demurrer and dismissed the complaint and the

¹⁰ *Id.* at 73.

¹¹ *Id.* at 315–318.

¹² *Id.* at 238–240.

¹³ *Id.* at 10 & 238.

¹⁴ *Id.* at 149–154.

¹⁵ *Id.* at 196–200. The June 7, 2007 Order was penned by Presiding Judge Eleanor R. Kwong.

¹⁶ *Id.* at 319–322.

¹⁷ *Id.* at 12.

¹⁸ *Id.* at 368. Dated March 17, 2016.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 368–371. The July 18, 2016 Order was penned by Presiding Judge Eleanor R. Kwong.

²² *Id.* at 371.

²³ *Id.* at 500–547.

²⁴ *Id.* at 560–568. The April 16, 2018 Order was penned by Presiding Judge Eleanor R. Kwong.

complaint-in-intervention.²⁵ Estrella et al.²⁶ and Tri-City²⁷ respectively moved for reconsideration, but these were denied in a Resolution.²⁸ Hence, the Appeal²⁹ before the CA.

Then, the CA issued a Minute Resolution,³⁰ the relevant portion of which states:

2. Per CA-CMIS verification report dated January 21, 2020 that NO APPELLANTS' BRIEF has been filed by plaintiffs-appellants despite receipt by counsel of the Notice to file Brief and Minute Resolution dated October 9, 2019, the instant **appeal** is considered **ABANDONED** and accordingly **DISMISSED** pursuant to Sec. 1(e), Rule 50 of the 1997 Rules of Civil Procedure.³¹ (Emphasis in the original)

Subsequently, the CA issued a Resolution,³² the dispositive portion of which reads:

FOR THESE REASONS, the *Motion for Reconsideration* filed by intervenor-appellant Tri-City Landholdings, Inc. and the plaintiffs-appellants' *Manifestation with Motion to Admit Attached Appellants' Brief dated October 23, 2019 with Manifestation and Compliance* are **DENIED**. Our Resolution dated 31 January 2020 **STANDS**. Accordingly, intervenor-appellant Tri-City Landholdings, Inc.'s appeal is likewise **DISMISSED**.

SO ORDERED.³³ (Emphasis in the original)

The CA explained that Estrella et al. were given 45 days, or until September 7, 2019, within which to file their Brief. However, despite receipt of the notice of the CA instructing them to file their Brief and the October 9, 2019 Minute Resolution, they failed to file on time. It took them six months, or on February 14, 2020, to file their Brief.³⁴ The explanation proffered by Estrella et al. was found to be unacceptable. The CA ruled that the attribution of negligence to the counsel's messengerial staff does not automatically shield the client from the adverse consequence of such negligence and relieve the client from the unfavorable result of such lapse.³⁵ The CA declared that their failure to find out the status of their appeal and to monitor whether the counsel filed their Brief on time rendered them undeserving of any sympathy from the court with regard to the negligence of their counsel.³⁶

²⁵ *Id.* at 568.

²⁶ *Id.* at 569–580.

²⁷ *Id.* at 581–590.

²⁸ *Id.* at 610–612. The March 15, 2019 Order was penned by Presiding Judge Eleanor R. Kwong.

²⁹ *Id.* at 613–614.

³⁰ *Rollo* (G.R. No. 257814), p. 35. January 31, 2020.

³¹ *Id.*

³² *Id.* at 37–53. Dated October 27, 2021.

³³ *Id.* at 53.

³⁴ *Id.* at 42.

³⁵ *Id.*

³⁶ *Id.* at 43.

As regards the intervention filed by Tri-City, the CA held that there was no other recourse but to also dismiss it. It underscored the rule that intervention cannot proceed as an independent action as it is merely ancillary and supplemental to the main action.³⁷

Moreover, the CA pointed out that this Court had already conclusively resolved in the consolidated cases of *Manotok v. CLT Realty Development Corp. (Manotok and Araneta)*,³⁸ *Angeles v. The Secretary of Justice*,³⁹ and *Phil-Ville Development & Housing Corporation v. Bonifacio*⁴⁰ that OCT No. 994 dated April 19, 1917 is inexistent. In these cases, it was already declared that OCT No. 994 dated May 3, 1917 had already been partitioned among the true co-owners who later sold their respective shares to legitimate transferees.⁴¹

The CA relied on the ruling of this Court in the consolidated cases of *Manotok* and *Araneta*, particularly the following pronouncements:

The determinative test to resolve whether the prior decision of this Court should be affirmed or set aside is whether or not the titles invoked by the respondents are valid. If these titles are sourced from the so-called OCT No. 994 dated 17 April 1917, then such titles are void or otherwise should not be recognized by this Court. Since the true basic factual predicate concerning OCT No. 994 which is that there is only one such OCT differs from that expressed in the *MWSS* and *Gonzaga* decisions, said rulings have become virtually *functus officio* except on the basis of the "law of the case" doctrine, and can no longer be relied upon as precedents.

....

First, there is only one OCT No. 994. As it appears on the record, that mother title was received for transcription by the Register of Deeds on 3 May 1917, and that should be the date which should be reckoned as the date of registration of the title. It may also be acknowledged, as appears on the title, that OCT No. 994 resulted from the issuance of the decree of registration on 17 April 1917, although such date cannot be considered as the date of the title or the date when the title took effect.

Second. Any title that traces its source to OCT No. 994 dated 17 April 1917 is void, for such mother title is inexistent. The fact that the Dimson and CLT titles made specific reference to an OCT No. 994 dated 17 April 1917 casts doubt on the validity of such titles since they refer to an inexistent OCT. This error alone is, in fact, sufficient to invalidate the Dimson and CLT claims over the subject property if singular reliance is placed by them on the dates appearing on their respective titles.

³⁷ *Id.* at 44.

³⁸ 565 Phil. 59, 96 (2007) [Per J. Tinga, *En Banc*].

³⁹ 628 Phil. 381, 399 (2010) [Per J. Leonardo-De Castro, First Division].

⁴⁰ 666 Phil. 325 (2011) [Per J. Villarama, Jr., Third Division].

⁴¹ *Rollo* (G.R. No. 257814), pp. 45-51.

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Third. The decisions of this Court in *MWSS v. Court of Appeals* and *Gonzaga v. Court of Appeals* cannot apply to the cases at bar, especially in regard to their recognition of an OCT No. 994 dated 19 April 1917, a title which we now acknowledge as inexistent. Neither could the conclusions in *MWSS* or *Gonzaga* with respect to an OCT No. 994 dated 19 April 1917 bind any other case operating under the factual setting the same as or similar to that at bar.⁴² (Emphasis in the original)

The CA also cited the ruling of this Court in *Angeles v. Secretary of Justice*⁴³ where it was stated that:

[A]t this point that in the recent case resolved by this Court En Banc in 2007, entitled *Manotok Realty, Inc. v. CLT Realty Development Corporation* (the 2007 *Manotok* case), as well as the succeeding resolution in the same case dated March 31, 2009 (the 2009 *Manotok* case), the controversy surrounding the Maysilo Estate and the question of the existence of another OCT No. 994 have been finally laid to rest. All other cases involving said estate and OCT No. 994, such as the case at bar, are bound by the findings and conclusions set forth in said resolutions.⁴⁴ (Citations omitted)

The CA also took into consideration this Court's 2015 cases of *Syjuco v. Bonifacio*⁴⁵ and *CLT Realty Development Corporation v. Hi-Grade Feeds Corporation*,⁴⁶ where it was reiterated that there is only one OCT No. 994, the one registered on May 3, 1917. Pursuant to these rulings, the CA stressed that any title that traces its source to OCT No. 994 dated April 17, 1917 is void as such mother title is inexistent.⁴⁷ It considered the foregoing cases as *res judicata* that precludes Estrella et al. and Tri-City from having any right or interest in the Maysilo Estate.⁴⁸

In the Petition⁴⁹ docketed as G.R. No. 257814, Estrella et al. maintain that (1) the interest of substantial justice should allow the relaxation of the rules;⁵⁰ (2) the elements of *res judicata* do not exist;⁵¹ and (3) SM Prime has no standing in this case.⁵²

On the other hand, in the Petition⁵³ docketed as G.R. No. 257944, Tri-City insists that (1) the filing of its Appellant's Brief bars the dismissal of the

⁴² *Supra* note 38, at 89 & 96.

⁴³ 628 Phil. 381 (2010) [Per. J. Leonardo-De Castro, First Division].

⁴⁴ *Id.* at 398.

⁴⁵ 750 Phil. 443, 468 (2015) [Per J. Leonardo-De Castro, First Division].

⁴⁶ 768 Phil. 149, 172 (2015) [Per J. Perez, First Division].

⁴⁷ *Rollo* (G.R. No. 257814), p. 52.

⁴⁸ *Id.* at 52-53.

⁴⁹ *Id.* at 9-33.

⁵⁰ *Id.* at 15-17.

⁵¹ *Id.* at 17-30.

⁵² *Id.* at 30-31.

⁵³ *Rollo* (G.R. No. 257944), pp. 3-41.

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instant appeal;⁵⁴ (2) the source of rights of the heirs emanate from the fact that they are the heirs of Vidal;⁵⁵ (3) it is not merely a substitute to the heirs but is considered an assignee to the rights of the heirs with legal, direct, material, and actual interest in the case;⁵⁶ and (4) it was deprived of its right to present material and competent evidence that would establish the sufficiency of evidence in the instant case.⁵⁷

Meanwhile, in the Consolidated Opposition with Motion to Impose Sanctions⁵⁸ filed by SM Prime, it argued that (1) the Petition filed by Estrella et al. does not contain a verification and certification against forum shopping which is a ground for the immediate dismissal of the case;⁵⁹ (2) the Petition of Estrella et al. was filed out of time and did not comply with the material dates requirement in Rule 45, warranting the outright denial of their Petition;⁶⁰ (3) Tri-City did not indicate that there are no other similar actions or claims filed before any court involving the same issues with respect to the present case;⁶¹ (4) Tri-City is only a mere purported assignee of the supposed heirs of Vidal;⁶² (5) the CA correctly denied the Manifestation with Motion (To Admit attached Appellants' Brief dated October 23, 2019) since the explanation Estrella et al. proffered for the belated filing was unacceptable;⁶³ (6) Tri-City's Intervention cannot proceed as an independent action because it is merely ancillary and supplemental to the petition of Estrella et al.;⁶⁴ (7) Tri-City has no right to intervene as it has no legal interest in the Maysilo Estate⁶⁵ and it has no better or greater right than the alleged heirs of Vidal as it is merely their purported assignee;⁶⁶ (8) the principles of *res judicata* and *stare decisis* apply to the present case;⁶⁷ (9) Tri-City's claim is based on the inexistent OCT No. 994 dated April 19, 1917;⁶⁸ (10) the alleged heirs of Vidal from whom Tri-City derives its purported right, are not the real heirs of Vidal;⁶⁹ and (11) the subject property had already been partitioned among the true co-owners who then sold their respective shares to other parties.⁷⁰

In a Resolution,⁷¹ this Court ordered that the two Petitions for Review on *Certiorari* docketed as G.R. Nos. 257814 and 257944 be consolidated.⁷²

⁵⁴ *Id.* at 19–21.

⁵⁵ *Id.* at 24–29.

⁵⁶ *Id.* at 29–33.

⁵⁷ *Id.* at 33–39.

⁵⁸ *Rollo* (G.R. No. 257814), pp. 65–167.

⁵⁹ *Id.* at 84–85.

⁶⁰ *Id.* at 85–86.

⁶¹ *Id.* at 87.

⁶² *Id.* at 87–90, 121–125 & 145–147.

⁶³ *Id.* at 91–94.

⁶⁴ *Id.* at 94–98.

⁶⁵ *Id.* at 98–105.

⁶⁶ *Id.* at 121–125 & 145–147.

⁶⁷ *Id.* at 130–131.

⁶⁸ *Id.* at 137–139.

⁶⁹ *Id.* at 140–144.

⁷⁰ *Id.* at 144.

⁷¹ *Id.* at 195. Dated July 18, 2022.

⁷² *Id.*

Issues

I.

Whether the Petition docketed as G.R. No. 257814 is marred with procedural infirmities, warranting its outright dismissal;

II.

Whether the CA correctly dismissed the Appeal of Estrella et al. due to their failure to timely submit the requisite Appellants' Brief; and

III.

Whether the intervention filed by Tri-City may proceed as an independent action.

This Court's Ruling

The Petition must be denied.

The Petition docketed as G.R. No. 257814 is marred with procedural infirmities, warranting its outright dismissal

At the outset, procedural defects were noted, warranting the dismissal of the case docketed as G.R. No. 257814. The Petition lacks (1) proof of service on the CA; (2) clearly legible duplicate original or certified true copy of the assailed Resolution dated January 31, 2020, as only a photocopy was attached; and (3) competent evidence of identity of the counsel for petitioner who signed the affidavit of service.

Furthermore, the material dates indicated in the Petition docketed as G.R. No. 257814 were hardly sufficient to establish the timeliness of its filing. The relevant portion of the Petition states:

18. Aggrieved with the decision, petitioners filed an appeal before the Court of Appeals, [which] in its Minute Resolution dated January 31, 2020 dismissed and deemed the appeal abandoned.

19. Petitioners filed a Manifestation with Motion to Admit their Appellants' Brief but was likewise denied in the Resolution dated October 27, 2021.⁷³

⁷³ *Id.* at 13.

The foregoing averments fail to satisfy the material dates that must be outlined in a petition filed under Section 4, Rule 45 of the Rules of Court as it explicitly requires that the petition must:

(b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received[.]

Here, the quoted averments in the Petition fail to establish that it was timely filed because the dates when the assailed resolutions were received by Estrella et al. cannot be ascertained. The Manifestation with Motion to Admit their Appellants' Brief is not even the motion for new trial or reconsideration contemplated in Section 4, Rule 45 of the Rules of Court.

Nevertheless, even assuming for the sake of argument that the Manifestation with Motion to Admit their Appellants' Brief filed by Estrella et al. may be treated as a motion for reconsideration that was timely filed, the present Petition was still filed out of time.

In this regard, it is worthy to highlight Administrative Matter (A.M.) No. 00-2-14-SC, where this Court clarified the application of Section 1, Rule 22 of the Rules of Court in the event that the last day of filing a pleading falls on a Saturday, Sunday, or a legal holiday, and the original period is extended. The relevant portion of A.M. No. 00-2-14-SC⁷⁴ states:

Whereas, Section 1, Rule 22 of the 1997 Rules of Civil Procedure provides:

Section 1. *How to compute time.* — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

Whereas, the aforecited provision applies in the matter of filing of pleadings in courts when the due date falls on a Saturday, Sunday, or legal holiday, in which case, the filing of the said pleading on the next working day is deemed on time.

Whereas, the question has been raised if the period is extended *ipso jure* to the next working day immediately following where the last day of the period is a Saturday, Sunday[,] or legal holiday so that when a motion

⁷⁴ *Computation of Time When Last Day Falls on a Saturday, Sunday or Legal Holiday and a Motion for Extension Filed on Next Working Day is Granted*, A.M. No. 00-2-14-SC, February 29, 2000.

for extension of time is filed, the period of extension is to be reckoned from the next working day and not from the original expiration of the period;

NOW[,] THEREFORE, the Court Resolves, for the guidance of the Bench and the Bar, to declare that Section 1, Rule 22 speaks only of “the last day of the period” so that when a party seeks an extension and the same is granted, the due date ceases to be the last day and hence, the provision no longer applies. Any extension of time to file the required pleading should therefore be counted from the expiration of the period regardless of the fact that said due date is a Saturday, Sunday[,] or legal holiday.

Noticeably, Estrella et al. stated that they received a copy of the assailed Resolution of the CA on November 5, 2021. As such, Estrella et al. were given until November 20, 2021 to file the Petition or a motion for extension. Since the last day to file fell on a Saturday, the petition or motion for extension may be filed on the next working day, November 22, 2021. However, for purposes of computing the last day to file the petition during the extended period, it should be reckoned from November 20, 2021, the actual last day, even if it fell on a Saturday. Applying A.M. No. 00-2-14-SC, it is clear that though the original due date fell on a Saturday and the motion for extension of time was filed on November 22, 2021, the reckoning date to compute the extended period within which to file the petition should still be November 20, 2021. Thus, Estrella et al. only had until December 20, 2022 to file their petition.

Furthermore, the assertion of Estrella et al. that they timely filed the Petition on December 23, 2021 *via* registered mail is not only inaccurate, but also false and misleading. A careful scrutiny of the Affidavit of Service⁷⁵ attached to the Petition reveals that Estrella et al.’s counsel, Atty. Mario Bernardo S. Cerro (*Atty. Cerro*), made a blatant misrepresentation to this Court that should not be countenanced. The relevant portion of Atty. Cerro’s Affidavit of Service states:

Proof of Service – On DECEMBER ____, 2021, I personally served a copy of the PETITION FOR REVIEW ON CERTIORARI as shown by the following courier receipt on even date, to:

Explanation – Said service and the filing of this Petition with the Honorable Supreme Court is being made [*via*] registered mail due to time constraints and unavailability of a messenger to effect personal delivery.⁷⁶ (Italics in the original)

⁷⁵ *Rollo* (G.R. No. 257814), p. 54.

⁷⁶ *Id.*

In Section 16, Rule 13 of the 2019 Proposed Amendments to the Revised Rules on Civil Procedure (2019 Amendments),⁷⁷ it is explicitly stated that:

Section 16. *Proof of filing.* — The filing of a pleading or any other court submission shall be proved by its existence in the record of the case.

....

(b) If the pleading or any other court submission was filed by registered mail, the filing shall be proven by the registry receipt and by the affidavit of the person who mailed it, containing a full statement of the date and place of deposit of the mail in the post office in a sealed envelope addressed to the court, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if not delivered[.] (Emphasis supplied)

Based on the foregoing provision, filing by registered mail shall be proven by (1) the registry receipt; and (2) the affidavit of the person who mailed it, containing a full statement of the date and place of deposit of the mail in the post office.

Contrary to the statement of Atty. Cerro in his affidavit of service that the Petition was filed *via* registered mail, it was actually filed through private courier. This was evidenced by the LBC envelope attached to the Petition which also indicated that Atty. Cerro mailed the pleading on December 23, 2021.⁷⁸ Noticeably, there was no postal registry receipt attached to prove such fact, and the affidavit of service of Atty. Cerro lacked the necessary information that would establish the date and place of deposit of the mail in the post office. This is a clear misrepresentation that has no place in this Court.

Having settled that the Petition was filed through private courier, this Court shall now determine the actual date of filing of the Petition.

It must be pointed out that prior to the effectivity of the 2019 Amendments to the Rules of Court, there were only two modes of filing and service: (1) personal filing/service; and (2) registered mail using the Philippine postal system. Section 3, Rule 13 of the Rules of Court states:

Section 3. *Manner of filing.* — The filing of pleadings, appearances, motions, notices, orders, judgments[.] and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally

⁷⁷ The 2019 Proposed Amendments to the Revised Rules on Civil Procedure (2019 Amendments) took effect on May 1, 2020 and shall cover (i) all cases filed after the said date; and, (ii) all pending proceedings except to the extent that, in the opinion of the court, their application would not be feasible or would work injustice.

⁷⁸ *Rollo* (G.R. No. 257814), p. 56.

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to the clerk of court or by sending them by registered mail. In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments[,] or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case. (Emphasis in the original)

In the 2019 Amendments, Rule 13 was revised and now provides for other forms of filing and service such as (1) through accredited courier; and (2) transmitting them by electronic means such as electronic mail and (in the case of service) facsimile transmission. These modes of filing and service may be availed of by the parties to the action. This is reflected in Section 3, Rule 13 of the 2019 Amendments, which reads:

Section 3. *Manner of filing.* — The filing of pleadings and other court submissions shall be made by:

- (a) Submitting personally the original thereof, plainly indicated as such, to the court;
- (b) Sending them by registered mail;
- (c) Sending them by accredited courier; or
- (d) Transmitting them by electronic mail or other electronic means as may be authorized by the court in places where the court is electronically equipped.

In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second and third cases, the date of the mailing of motions, pleadings, [and other court submissions, and] payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case. In the fourth case, the date of electronic transmission shall be considered as the date of filing. (Emphasis in the original)

However, the additional modes of filing and service are not applicable to initiatory pleadings and initial responsive pleadings. Considering that a petition for review on *certiorari* is an initiatory pleading, its service or filing is governed by Section 14, Rule 13 of the 2019 Amendments, which expressly provides:

Section 14. *Conventional service or filing of orders, pleadings[,] and other documents.* — Notwithstanding the foregoing, the following orders, pleadings, and other documents must be served or filed personally or by registered mail when allowed, and shall not be served or filed electronically, unless express permission is granted by the court:

- (a) Initiatory pleadings and initial responsive pleadings, such as an answer[.]

②

The foregoing provision means that despite the additional modes of filing and service introduced in the 2019 Amendments, initiatory pleadings such as the present Petition should be filed either personally or through registered mail. The provision does not permit the filing of an initiatory pleading *via* private courier. As such, the Petition docketed as G.R. No. 257814 shall be treated as if filed *via* ordinary mail.⁷⁹

As a pleading filed *via* ordinary mail, it is the date when this Court actually received a copy of the Petition, January 11, 2022, that shall be considered the date of filing, and not the date of mailing on December 23, 2021. Hence, even assuming for the sake of argument that Estrella et al. timely filed their motion for extension, the Petition was still filed beyond the allowed extended period.

In addition to the procedural infirmities already discussed above, the Petition docketed as G.R. No. 257814 was filed without the requisite verification and certification of non-forum shopping.

The Rules of Court require that a petition for review on *certiorari* filed pursuant to Rule 45, among other requirements, must be verified,⁸⁰ and must contain a sworn certification against forum shopping, as prescribed in Section 4, Rule 45 of the Rules⁸¹ and by Section 5, Rule 7 of the 2019 Amendments.⁸²

⁷⁹ *Barroso v. Commission on Audit*, G.R. No. 253253, April 27, 2021 [Per J. Lazaro-Javier, *En Banc*] at 7. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Citation omitted)

⁸⁰ RULES OF COURT, Rule 45, sec. 1 states:
Section 1. *Filing of petition with Supreme Court*. — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

⁸¹ RULES OF COURT, Rule 45, sec. 4 states:
Section 4. *Contents of petition*. — The petition shall ... (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42(2a).

⁸² Rule 7, sec. 5 of the 2019 Amendments states:
Section 5. *Certification against forum shopping*. — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he or she has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his or her knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he or she should thereafter learn that the same or similar action or claim has been filed or is pending, he or she shall report that fact within five (5) calendar days therefrom to the court wherein his or her aforesaid complaint or initiatory pleading has been filed.

The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading. Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his or her counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

Following the numerous procedural infirmities in the Petition docketed as G.R. No. 257814, this Court shall now delve on the implications and repercussions of Estrella et al.'s acts and omissions that defy and disregard the rules of procedure mandated by this Court.

To stress, the right to appeal is neither a natural right nor is it a component of due process. It is settled that an appeal is a mere statutory privilege that may only be exercised in the manner and in accordance with the provisions of law.⁸³ As such, an appeal through a petition for review on *certiorari* under Rule 45 may be dismissed when there is non-compliance with the law, including the Rules of Court. This is supported by Section 5, Rule 45 of the Rules of Court, which states:

Section 5. *Dismissal or denial of petition.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.

Similarly, in Section 5, Rule 56 of the Rules of Court, it was categorically stated that:

Section 5. *Grounds for dismissal of appeal.* — The appeal may be dismissed *motu proprio* or on motion of the respondent on the following grounds:

(a) Failure to take the appeal within the reglementary period;

...

(d) Failure to comply with the requirements regarding proof of service and contents of and the documents which should accompany the petition;

(e) Failure to comply with any circular, directive or order of the Supreme Court without justifiable cause[.] (Emphasis in the original)

After a judicious review of the case, this Court finds that Estrella et al. failed to give any justifiable explanation to merit the liberal application of the

⁸³ *Boardwalk Business Ventures, Inc. v. Villareal*, 708 Phil. 443, 445 (2013) [Per J. Del Castillo, Second Division], citing *Fenequito v. Vergara Jr.*, 691 Phil. 335 (2012) [Per J. Peralta, Third Division].

Rules of Court. As such, this Court finds that the Petition docketed as G.R. No. 257814 must be dismissed.

More importantly, it is worthy to point out that this is not the first time that Estrella et al. failed to comply with the Rules of Court. As discussed earlier, Estrella et al.'s Appeal to the CA was dismissed for failure to timely file their Appellants' Brief. This shows Estrella et al.'s proclivity and penchant for disregarding fundamental rules of procedure which should not be tolerated. It is settled that "procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party."⁸⁴

In the case of *Ti v. Dino*,⁸⁵ this Court emphasized that:

The use of the words "substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed, simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons, when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. Thus, as called upon by the respondents, the Court yields to the time-honored principle "Justice is for all." Litigants must have equal footing in a court of law; the rules are laid down for the benefit of all and should not be made dependent upon a suitor's sweet time and own bidding.⁸⁶ (Citations omitted)

Accordingly, this Court finds that the petition should be dismissed due to the procedural infirmities discussed above.

The CA correctly dismissed the Appeal of Estrella et al. due to their failure to submit the requisite Appellants' Brief

In any case, even if this Court disregards the procedural infirmities committed at this stage of the proceedings, this Court still finds that the CA correctly dismissed the Appeal of Estrella et al. due to their failure to timely submit the requisite Appellants' Brief.

⁸⁴ *Sindophil, Inc. v. Republic*, 842 Phil. 929, 938 (2018) [Per J. Leonen, Third Division], citing *Garbo v. CA*, 327 Phil. 780 (1996) [Per J. Francisco, Third Division] and *Santos v. Court of Appeals*, 275 Phil. 894 (1991) [Per J. Cruz, First Division].

⁸⁵ 820 Phil. 330 (2017) [Per J. Peralta, Second Division].

⁸⁶ *Id.* at 343.

Section 7, Rule 44 of the Rules of Court states:

Section 7. *Appellant's brief.* — It shall be the duty of the appellant to file with the court, within forty-five (45) days from receipt of the notice of the clerk that all the evidence, oral and documentary, are attached to the record, seven (7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellee.

Based on the quoted provision, Estrella et al., who were the appellants in the proceedings in the CA, were given 45 days from receipt of the notice, or until September 7, 2019, within which to file their Brief. However, despite receipt of the notice and the Minute Resolution dated October 9, 2019 of the CA, they failed to timely file the Brief. Instead, the CA noted that Estrella et al. filed their Brief six months later, or on February 14, 2020.⁸⁷

In justifying the belated filing of the Appellants' Brief, Estrella et al. blamed their counsel's messengerial staff who allegedly misplaced the envelopes containing the Brief. This Court finds such explanation unacceptable.

It is settled that the negligence of a counsel binds the client as any act performed by a counsel within the scope of his or her general or implied authority is regarded as an act of his or her client.⁸⁸ As such, a mistake or negligence of counsel that results in the rendition of an unfavorable judgment against the client binds the latter.⁸⁹ Nevertheless, there are exceptions to the foregoing rule, such as:

Where the reckless or gross negligence of counsel deprives the client of due process of law; or where the application of the rule will result in outright deprivation of the client's liberty or property; or where the interests of justice so requires and relief ought to be accorded to the client who suffered by reason of the lawyer's gross or palpable mistake or negligence. In order to apply the exceptions rather than the rule, the circumstances obtaining in each case must be looked into. In cases where one of the exceptions is present, the courts must step in and accord relief to a client who suffered thereby.⁹⁰ (Citations omitted)

Here, it is difficult to believe that after delegating the task of submitting the Brief of Estrella et al. to the messengerial staff, Estrella et al.'s counsel did not bother to ensure that it was properly filed. It is the duty of the counsel of Estrella et al. to monitor the status of the cases entrusted to him. If every shortcoming of a counsel, or the messengerial staff would be considered a

⁸⁷ *Rollo* (G.R. No. 257814), p. 39.

⁸⁸ *Multi-Trans Agency Phils., Inc. v. Oriental Assurance Corp.*, 608 Phil. 478, 493 (2009) [Third Division].

⁸⁹ *Id.*

⁹⁰ *Id.* at 493-494.

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ground to excuse a party's failure to comply with the Rules of Court, this "would render court proceedings indefinite, tentative, and subject to reopening at any time by the mere subterfuge of replacing counsel."⁹¹

Now that it is settled that Estrella et al. are bound by the mistake, inadvertence, or negligence of their counsel, this Court shall now discuss the consequence of failing to timely file the Appellants' Brief.

Section 1, Rule 50 of the Rules of Court provides:

SECTION 1. *Grounds for dismissal of appeal.* — An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

....

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules. (Emphasis in the original)

In *The Government of the Kingdom of Belgium v. Hon. Court of Appeals*,⁹² this Court laid down the prevailing principles that must be observed in resolving an issue involving the non-filing of or failure to timely file an Appellant's Brief:

(1) The general rule is for the Court of Appeals to dismiss an appeal when no appellant's brief is filed within the reglementary period prescribed by the rules;

(2) The power conferred upon the Court of Appeals to dismiss an appeal is discretionary and directory and not ministerial or mandatory;

(3) The failure of an appellant to file his brief within the reglementary period does not have the effect of causing the automatic dismissal of the appeal;

(4) In case of late filing, the appellate court has the power to still allow the appeal; however, for the proper exercise of the court's leniency[,] it is imperative that:

(a) the circumstances obtaining warrant the court's liberality;

(b) that strong considerations of equity justify an exception to the procedural rule in the interest of substantial justice;

(c) no material injury has been suffered by the appellee by the delay;

⁹¹ *Mendoza v. Court of Appeals*, 764 Phil. 53, 64 (2015) [Per J. Perez, First Division].

⁹² 574 Phil. 380 (2008) [Per J. Chico-Nazario, Third Division].

- (d) there is no contention that the appellees' cause was prejudiced;
- (e) at least there is no motion to dismiss filed.
- (5) In case of delay, the lapse must be for a reasonable period; and
- (6) Inadvertence of counsel cannot be considered as an adequate excuse as to call for the appellate court's indulgence except:
 - (a) where the reckless or gross negligence of counsel deprives the client of due process of law;
 - (b) when application of the rule will result in outright deprivation of the client's liberty or property; or
 - (c) where the interests of justice so require.⁹³

It is settled that the failure to timely file an appellant's brief results in the abandonment of the appeal which may be the cause for its dismissal.⁹⁴ It must be emphasized that "the right to appeal is not a natural right but a statutory privilege, and it must be exercised only in the manner and in accordance with the provisions of law."⁹⁵

Here, Estrella et al. were afforded every opportunity to be heard at various stages of the proceedings that precludes them from claiming that they were denied due process of law. While there are exceptions to the stringent application of the provisions of the Rules of Court on the belated or non-filing of the Appellant's Brief, Estrella et al. failed to prove that any of these exceptions exist in the present case to justify this Court's leniency.

The CA correctly considered Estrella et al.'s Appeal abandoned for failure to file their Brief within the prescribed period. The inadvertence of the messengerial staff cannot be considered as an adequate excuse for the late filing of the Appellants' Brief, save for exceptional circumstances that would merit a liberal application of the Rules. Unfortunately, no such circumstance was present in this case. Thus, the assailed decision of the RTC is considered final and executory and may no longer be challenged in the present petition for review on *certiorari* docketed as G.R. No. 257814.

⁹³ *Id.* at 397-398.

⁹⁴ *Beatingo v. Gasis*, 657 Phil. 552, 559 (2011) [Per J. Nachura, Second Division].

⁹⁵ *Sibayan v. Costales*, 789 Phil. 1, 9 (2016) [Per J. Perez, Third Division].

*The intervention filed by Tri-City
cannot proceed as an independent
action*

The intervention filed by Tri-City, which is the basis for the Petition docketed as G.R. No. 257944 and its participation in the main suit, cannot proceed as an independent action.

Intervention is a remedy wherein a third party, not originally impleaded in the proceedings, becomes a litigant therein to protect or preserve a right or interest that may be affected by those proceedings. This remedy, however, is not a right. The rules on intervention are set forth clearly in Rule 19 of the Rules of Court, which reads:

Sec. 1. Who may intervene. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

Intervention requires (1) a movant's legal interest in the matter being litigated; (2) a showing that the intervention will not delay the proceedings; and (3) a claim by the intervenor that is incapable of being properly decided in a separate proceeding.⁹⁶ Intervention is not an absolute right and may be secured only in accordance with the Rules of Court.⁹⁷

An intervention presupposes that there is an existing matter being litigated and the party seeking to intervene intends to be impleaded in the main or principal action. Without such action, this Court is devoid of any authority to grant the reliefs prayed for and such reliefs serve no practical value nor legal relevance. In *Falcis III v. Civil Registrar General*,⁹⁸ this Court categorically declared that "intervention is not an independent action but is ancillary and supplemental to existing litigation."⁹⁹

Essentially, the intervention of Tri-City cannot survive without a principal main suit. Therefore, the dismissal of the Petition docketed as G.R.

⁹⁶ *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019 [Per J. Leonen, *En Banc*] at 87. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Citation omitted)

⁹⁷ *Spouses Constantino v. Benitez*, G.R. No. 233507, February 10, 2021 [Per J. Carandang, First Division].
⁹⁸ *Supra* 96.

⁹⁹ *Id.* at 86. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Citation omitted)

No. 257814 necessarily gives rise to the dismissal of the Petition docketed as G.R. No. 257944.

The counsel of Estrella et al. in the petition docketed as G.R. No. 257814 must be instructed to show cause for submitting an inaccurate, false, and misleading affidavit of service

Lastly, the inaccurate and false statements made by Atty. Cerro in his affidavit of service simply cannot be ignored. Atty. Cerro attempted to mislead this Court to conceal the fact that the Petition docketed as G.R. No. 257814 was belatedly filed *via* ordinary mail. Such conduct has no place in this Court. Thus, Atty. Cerro must be directed to show cause within a non-extendible period of 10 days from receipt of this Resolution why he should not be the subject of administrative actions for his contumacious acts in complete disregard of the Rules of Court, the Code of Professional Responsibility, and the Lawyer's Oath. The action against Atty. Cerro will be docketed as a new and separate administrative case.

ACCORDINGLY, the consolidated Petitions for Review on *Certiorari* docketed as G.R. No. 257814 and G.R. No. 257944 are **DENIED**. The Resolution dated October 27, 2021 of the Court of Appeals in CA-G.R. CV No. 113161, which dismissed the appeal of Romulo B. Estrella, Cesar B. Angeles, and Felixberto D. Aquino, is **AFFIRMED**.

Atty. Mario Bernardo S. Cerro is **ORDERED** to **SHOW CAUSE** within a non-extendible period of ten (10) days from receipt of this Decision why he should not be the subject of administrative actions for his contumacious acts in complete disregard of the Rules of Court, the Code of Professional Responsibility, and the Lawyer's Oath. The action against Atty. Mario Bernardo S. Cerro will be docketed as a new and separate administrative case.

Let a copy of this Decision be given to the Office of the Bar Confidant for the initiation of the proper disciplinary action against Atty. Mario Bernardo S. Cerro.

SO ORDERED.



JHOSEP Y. DOPEZ
Associate Justice

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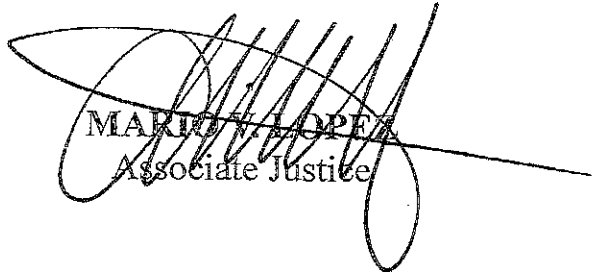
WE CONCUR:



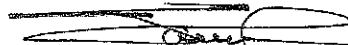
MARVIC M.V.F. LEONEN
Senior Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice




MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
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
Senior 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