



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DR. BENIGNO A. AGBAYANI,
JR., duly represented by his
common law spouse, ANGELI E.
AKABANE,

Petitioner,

- versus -

DIRECTOR OR WHOEVER IS
IN CHARGE OF THE MANILA
CITY JAIL, and all persons
taking orders from him/her, JR.
SUPT. MIRASOL VOCAL-
VITOR, City Jail Warden of
Manila City Jail-Male Dormitory,
Respondents.

G.R. No. 268876

Present:

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,*
M. LOPEZ,
J. LOPEZ, and
KHO, JR., JJ.

Promulgated:

AUG 07 2024

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RESOLUTION

KHO, JR., J.:

This resolves the Petition for *Habeas Corpus*,¹ under Rule 102 of the Rules of Court, filed on September 8, 2023 by Angeli E. Akabane (Angeli), as the common-law spouse of Dr. Benigno A. Agbayani, Jr., seeking the release of the latter from confinement for allegedly having been deprived of his liberty without due process of law and under a void judgment that has not become final and executory.

The Facts

The present Petition for *Habeas Corpus* is an offshoot of the Judgment² dated July 29, 2013 rendered by the Metropolitan Trial Court of

* On official business.

¹ *Rollo*, pp. 3-33. Filed by Angeli E. Akabane with the assistance of Atty. Estelito P. Mendoza.

² *Id.* at 36-44. Penned by Presiding Judge Manuel R. Recto.

AG

Manila (MeTC), Branch 13 in Criminal Case No. 052772-CN which found *Dr. Benigno A. Agbayani, Jr. (Dr. Agbayani) guilty of reckless imprudence resulting to serious physical injuries* and, accordingly, sentenced him to imprisonment of two years of *prision correccional* minimum.³ In a **Resolution⁴ dated June 23, 2021 in G.R. No. 215121, the Court upheld the July 29, 2013 MeTC, Branch 13 Judgment, with modification as to the penalty. The Court's June 23, 2021 Resolution attained finality on March 16, 2022.⁵**

A. Antecedents

To put the present issue and the Court's ruling herein in proper perspective, as will be discussed thoroughly below, it is apt to recall the antecedents that led to the present Petition, as culled from the Court's June 23, 2021 Resolution and the case records.

The case before the MeTC

In an Amended Information dated June 11, 2008, Dr. Agbayani was charged with reckless imprudence resulting in serious physical injuries for allegedly using an unsterilized medical instrument in the operation he conducted on the left knee of private complainant Saul Q. Hofileña, Jr. (Saul).⁶ The accusatory portion of the Information reads:

That on or about January 5, 2006, in the City of Manila, Philippines, the said accused, being then the surgeon and/or orthopaedist of complainant Saul Q. Hofileña, Jr., did then and there voluntarily but without malice, conduct an operation (arthroscopy) upon said complainant in a reckless manner by using a medical instrument (arthroscope) that was not sterilized without taking the necessary precaution to avoid injury to said complainant, taking into consideration his employment or occupation and degree of intelligence, causing as a consequence of his said carelessness, recklessness, negligence, imprudence[,] and lack of precaution the said complainant to suffer serious physical injuries on his left knee which rendered him incapacitated for work and/or labor for more than thirty (30) days and in fact said complainant had undergone another operation at St. Luke's Hospital, Quezon City on his left knee to remove the infection introduced by the accused and subsequent operation on his right wrist as a result of walking with a cane for a prolonged period of time, to the damage and prejudice of said Saul Q. Hofileña, Jr.⁷

Dr. Agbayani pleaded not guilty to the crime charged. Thereafter, trial on the merits ensued.⁸

³ *Id.* at 44.

⁴ *See* Notice of Resolution in G.R. No. 215121. *Id.* at 54–62.

⁵ *See* Entry of Judgment. *Rollo* (G.R. No. 215121), p. 675.

⁶ *Rollo*, p. 36.

⁷ CA *rollo*, pp. 160–161.

⁸ *Rollo*, p. 55.

The prosecution presented the following witnesses: (1) Saul; (2) Saul's private secretary, Emilie Valdivia (Valdivia); (3) Dr. Debbie P. Dela Fuente (Dr. Dela Fuente), the clinical and anatomic pathologist who signed the Report containing the findings on the infection sustained on Saul's left knee; (4) Elizabeth S. Hofileña (Elizabeth), wife of Saul; and (5) Christine Marie Javelona Pascual (Pascual), the medical technologist who conducted the test and examination of the specimen taken from Saul.⁹

The prosecution likewise submitted the following documentary exhibits: (i) criminal complaint of Saul, Exhibits "A" to "A-7-B"; (ii) Dr. Agbayani's prescription, Exhibit "B"; (iii) Reply Affidavit of Saul, Exhibit "C-C-6-B"; (iv) Supplemental Affidavit of Saul, Exhibit "D" to "D-10-B" with attachments marked and incorporated thereto as Annexes "A" to "WWWW"; (v) Answer of Dr. Agbayani, together with its Annexes, particularly Annex "G" thereof, i.e., the sterilization record, Exhibit "E" to "E-1";¹⁰ (vi) Medical Center Imus Result/the report signed by Pascual, RMT Medical Technologist and Dr. Dela Fuente, Pathologist, Exhibit "F"; (vii) Affidavit of Valdivia, Exhibit "G" to "G-2-A" and "I"; (viii) Supplemental Affidavit of Valdivia, Exhibit "H" to "H-2-A"; (ix) Logbook of Medical Center Imus, Exhibit "J" to "J-1" and "K" to "K-1"; (x) Check Voucher, Exhibit "L" to "L-7-A"; (xi) Affidavit of Saul's wife, Exhibit "M" to "M-3" with attached Annex; and (xii) Affidavit of Pascual, Exhibit "N" to "N-A."¹¹

Saul identified the handwritten findings (marked as Exhibits "B" and "B-1") which show the diagnosis, as well as the signature of Dr. Agbayani signed in front of him. He likewise identified the admission slips (marked as Exhibits "C," "C-1," "C-2," "C-3," and "C-4") which show his confinement at the Manila Doctors Hospital. Other documents identified by Saul include: the sterilization record (Annex "G" of Dr. Agbayani's Answer which the prosecution adopted as part of its Exhibits "E" and "E-1"),¹² and a copy of the report signed by Pascual, RMT medical technologist and Dr. Dela Fuente, pathologist (marked as Exhibits "F" and "F-1").¹³

Saul narrated that Dr. Agbayani first diagnosed him with "ANTERIOR CRUCIATE LIGAMENT" (ACL), but after the operation, the latter informed him that he does not have ACL, but rather *osteoarthritis* and advised him to lose weight. Saul relayed that Dr. Agbayani did not give him any written diagnosis and in fact, it was him who presented the MRI result before he was operated on by the latter. Additionally, Saul alleged that after the operation, Dr. Agbayani gave him antibiotics. Soon after, he visited Dr. Agbayani in his office to complain about the infection. Dr. Agbayani explained to him about the arthroscope device and told him that it was very difficult to sterilize the lens thereof which the former inserted in his knee. Saul admitted that there

⁹ See Formal Offer of Evidence/Exhibits. *Rollo* (G.R. No. 215121), pp. 126-132.

¹⁰ TSN, May 25, 2012, p. 19. *Id.* at 190.

¹¹ See Formal Offer of Evidence/Exhibits. *Rollo* (G.R. No. 215121), pp. 126-132.

¹² *Id.* at 84-94. See also *id.* at 114.

¹³ *Rollo*, pp. 37-38.

was no written agreement between him and Dr. Agbayani as to the fact that it was the latter who will personally sterilize the instrument. Nonetheless, Saul averred that Dr. Agbayani stated in a general way that “I’ll take care of everything. I’ll see to it that everything is okay.”¹⁴

Meanwhile, Valdivia testified that she is Saul’s secretary since 1995. She narrated that she heard the conversation between Dr. Agbayani and the prosecution, including Dr. Agbayani’s answers to the latter’s questions.¹⁵

Dr. Dela Fuente, a clinical and anatomic pathologist with eighteen years of experience and a consultant of Medical Center Imus since 2002, testified that when she signed the Report dated February 23, 2006 (marked as Exhibits “F” and “F-1”), she checked the logbook and confirmed the name of the medical technologist who conducted the test. Dr. Dela Fuente explained that staphylococcus, as mentioned on the Report, is an organism found in several parts of the body, some of which are coagulase negative, while others are coagulase positive. The one that causes diseases is the coagulase positive *staph aureus*. Dr. Dela Fuente explained that coagulase negative *staph aureus* is not as invasive, but they can be opportunistic infections, but these days, there are so many species that are also invasive, meaning, they cause so much disease. Heavy growth of coagulase negative *staph aureus* means that a lot of them are growing in the discharge of the patient. Dr. Dela Fuente attested that findings on her report are true and accurate. When asked by the defense counsel, Dr. Dela Fuente admitted that she did not perform the test on the specimen of Saul; rather, it was only the results that were given to her.¹⁶

For her part, Elizabeth narrated that the wound on Saul’s knee where the arthroscope was inserted became infected with a heavy growth of coagulase negative staphylococcus, per the findings of the Medical Center Imus.¹⁷

Finally, Pascual testified that there was a positive bacterial growth in the wound discharge that she examined that day and that she was not the one who typed the entries in Exhibit “F” (Medical Center Imus Result),¹⁸ albeit it was her findings. She admitted that she was not the one who received the sample she analyzed—since that duty belonged to the personnel in charge of the receiving section—but stated that she was certain that the specimen she examined came from Saul.¹⁹

On April 15, 2011, the prosecution formally offered in evidence the

¹⁴ *Id.* at 37–38.

¹⁵ *Id.* at 38.

¹⁶ *Id.* at 38–39.

¹⁷ *Id.* at 40.

¹⁸ *Rollo* (G.R. No. 215121), pp. 127–128.

¹⁹ *Rollo*, p. 40.

foregoing testimonies, as well as its exhibits.²⁰ Thereafter, on May 4, 2011, the defense submitted its Comments and Opposition thereto. The same were admitted by the MeTC, Branch 26 in an Order dated May 5, 2011.²¹

For its part, the defense presented as witnesses Dr. Agbayani and Reynaldo Nava (Nava), an information technician at the Manila Doctors Hospital.²²

Dr. Agbayani stated that he was not aware as to the exact time when the subject instrument was sterilized since it was not necessarily the day before the operation but rather within a certain prescribed period, after which the instrument will no longer be considered sterile. He narrated that Saul's operation took place on the first week of January 2006. The sterilization of the subject instrument, which were done by the nurses, started on December 19, 2005 and ended on December 20, 2005. No other sterilization was made between December 20, 2005 and the actual date of the operation which was around fifteen days therefrom. He asserted that he was not responsible for the storage of the instrument and that it was not his responsibility to know whether the instrument he will be using for operation are clean or not. Nonetheless, he determined whether the subject instrument has been sterilized by asking the nurses to which the latter replied in the affirmative, albeit he no longer inquired when the subject instrument was sterilized.²³

Nava, on the other hand, testified that they no longer tried to locate the logbook since the same is with the Department of Operating Room.²⁴

After trial on the merits, the MeTC, Branch 26 submitted the case for decision and set the promulgation of judgment in an Order dated April 4, 2013.

Meanwhile, on March 14, 2013, Dr. Agbayani filed a Motion for Voluntary Inhibition on the ground that the MeTC, Branch 26 Presiding Judge, Hon. Jorge Emmanuel M. Loreda (Judge Loreda), did not exhibit the cold neutrality of an impartial judge and showed manifest partiality toward the prosecution.²⁵ The prosecution opposed said Motion, arguing that the same is a feasible attempt to forestall judgment on a case governed by the Rules on Summary Procedure.²⁶

Acting on the Motion, Judge Loreda issued an Order dated April 1, 2013 granting the same and the case was forwarded to the Office of the

²⁰ See Formal Offer of Evidence/Exhibits; *rollo* (G.R. No. 215121), pp. 126-132.

²¹ See *rollo*, p. 40.

²² *Id.* at 41.

²³ *Id.* at 40-41.

²⁴ *Id.* at 41.

²⁵ *Id.* at 36 & 41.

²⁶ *Id.* at 41.

Executive Judge for re-raffle and thereafter, the records were sent to the Office of the Clerk of Court. The promulgation of the judgment dated April 4, 2013 was, thus, cancelled.²⁷

Subsequently, in an Order dated April 26, 2013, Hon. Juan O. Bermejo, Jr., Presiding Judge of the MeTC, Branch 3, declined from sitting in the case on the ground that, to his mind, the inhibition is improper as the stage of the proceedings is in the promulgation of the decision. Thus, the entire records of the case were transmitted to the Office of the Clerk of Court for proper disposition.²⁸ The case was eventually re-raffled to the MeTC, Branch 13, presided by Judge Manuel R. Recto (Judge Recto).²⁹

On May 31, 2013, Judge Recto resolved to have the case deemed submitted for decision considering that the presentation of the prosecution and defense evidence were already concluded.³⁰

The MeTC Ruling

As earlier stated, the MeTC, Branch 13 in its July 29, 2013 Judgment,³¹ found Dr. Agbayani guilty of reckless imprudence resulting to serious physical injuries and, accordingly, sentenced him to imprisonment of two years of *prision correccional* minimum.³² The MeTC, Branch 13 ruled that Dr. Agbayani failed to prove with sufficient evidence that he has observed due care and diligence required of him under the circumstances. Given the absence of any contrary expert evidence, the expert testimony of the prosecution witnesses Dr. Dela Fuente and Pascual, pointing to the negligence of Dr. Agbayani to ensure the proper sterilization of the subject instrument inside Saul's knee as the cause of the infection stands, conclusively rendering the former guilty of the crime charged.³³

Aggrieved with the MeTC, Branch 13 ruling, Dr. Agbayani appealed before the Regional Trial Court of Manila (RTC Manila), which was raffled to Branch 51.

Acting on the appeal, the RTC Manila, in an Order³⁴ dated **October 11, 2013**, directed Dr. Agbayani to file his Memorandum of Appeal as per Rule 40, Section 7(b) of the Rules of Court. Record shows that **Dr. Agbayani received copy of the RTC Manila's October 11, 2013 Order on November 19, 2013; thus, he had until December 4, 2013 within which to file his appeal**

²⁷ *Id.* at 41.

²⁸ *Id.* at 42.

²⁹ *Id.* at 36 & 42.

³⁰ *Id.* at 42.

³¹ *Id.* at 36–44. Penned by Presiding Judge Manuel R. Recto.

³² *Id.* at 44.

³³ *Id.* at 42–43.

³⁴ *Rollo* (G.R. No. 215121), p. 233.

memorandum.³⁵

Instead of complying with the RTC Manila's directive, however, *Dr. Agbayani filed a motion asking for extension of 15 days, or until December 19, 2013, to file the memorandum (1st Motion for Extension).*³⁶ The **RTC Manila granted his Motion in an Order dated December 16, 2013³⁷ thereby giving him until December 19, 2013 within which to file said memorandum.**³⁸ *Dr. Agbayani subsequently filed a second motion asking for an additional 15-day extension or until January 3, 2014 and thereafter, a third motion asking for another extension of seven days or until January 9, 2014 to file the appeal memorandum.*³⁹ The RTC Manila received the second and third motions for extension on January 15 and 20, 2014, respectively.⁴⁰ *All three motions for extension similarly reasoned "heavy pressure of work," "almost daily court hearings," and "submission of equally important pleadings" for the extension to be granted.*

The RTC Manila Ruling

In the interim, and prior to its receipt of Dr. Agbayani's second and third motions for extension, the RTC Manila issued an Order⁴¹ dated December 23, 2013 dismissing Dr. Agbayani's appeal for failure to file the memorandum of appeal within the granted 15-day extended period, viz.:

As prayed for, the court favorably acted on accused-appellant's Motion for Extension of time to file Appeal-Memorandum, by giving him until December 19, 2013, to file the same. **However, accused-appellant failed to comply with the order of the court dated December 16, 2013.**

Rule 40, Section 7(b) of the Rules of Court provides:

Section 7. Procedure in the Regional Trial Court.

(b) within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant's memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be ground for dismissal of the appeal.

WHEREFORE, for failure to file his memorandum. the court orders the appeal DISMISSED.⁴² (Emphasis supplied)

³⁵ See rollo, p. 55.

³⁶ Rollo (G.R. No. 215121), pp. 234-235.

³⁷ Rollo, p. 55.

³⁸ Id. at 45.

³⁹ Rollo (G.R. No. 215121), pp. 237-241.

⁴⁰ Rollo, p. 56.

⁴¹ Id. at 45. Penned by Presiding Judge Merianthe Pacita M. Zuraek.

⁴² Id.

Records show that **Dr. Agbayani filed his appeal Memorandum⁴³ on January 10, 2014.**

Dr. Agbayani moved for reconsideration⁴⁴ but was denied in an Order⁴⁵ dated February 26, 2014. The RTC Manila held that despite the extension given to him to file the appeal memorandum, or until December 19, 2013, he still failed to submit the same within the reglementary period. Instead, he filed two other motions for extension, which the RTC Manila received on January 15, 2014 and January 20, 2014, respectively, through registered mail.⁴⁶

Dissatisfied, Dr. Agbayani filed a Petition for Review⁴⁷ before the Court of Appeals (CA) alleging grave abuse of discretion on the part of the RTC Manila for dismissing his appeal for failure to file his memorandum of appeal within the extended period.⁴⁸

The CA Ruling

In a Resolution⁴⁹ dated April 29, 2014, the CA denied due course and dismissed outright Dr. Agbayani's Petition for Review for lack of merit.⁵⁰ It held that the right to appeal is not a natural right but a mere statutory privilege which may be exercised only in the manner and in accordance with the provisions of law, failing in which will result in the loss of the right to appeal, as in Dr. Agbayani's case.⁵¹

Significantly, the CA observed that *Dr. Agbayani failed to append to his Petition: (i) the Information dated January 22, 2006; (ii) Dr. Agbayani's Affidavits as well as Saul's Reply Affidavit filed before the MeTC; (iii) the witnesses' affidavits; (iv) the prosecution's evidence; (v) Dr. Agbayani's Comment and Opposition thereto; (vi) Dr. Agbayani's Answer; (vii) the RTC Manila's October 11, 2013 Order; (viii) Dr. Agbayani's motions for extension of time; (ix) Dr. Agbayani's motion for reconsideration of the RTC Manila's December 23, 2013 Order; (x) Dr. Agbayani's Memorandum on Appeal filed on January 10, 2014; and (xi) all other pleadings filed before the lower courts.*⁵²

Citing Rule 42, Section 2(d) of the Rules of Court, the CA held that Dr.

⁴³ *Rollo* (G.R. No. 215121), pp. 245–259.

⁴⁴ *See id.* at 261–262.

⁴⁵ *CA rollo*, pp. 41–42.

⁴⁶ *Id.* at 41.

⁴⁷ *Id.* at 3–38.

⁴⁸ *Rollo*, p. 56.

⁴⁹ *Id.* at 46–53. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Rodil V. Zalameda (now a Member of the Court) and Maria Elisa Sempio Diy of the Seventeenth Division, Court of Appeals, Manila.

⁵⁰ *Id.* at 52.

⁵¹ *Id.* at 49–52.

⁵² *Id.* at 50.

Agbayani's Petition for Review before it should have been accompanied by clearly legible duplicate originals or true copies of judgments or final orders of both first level and second level courts, certified correct by the clerk of court of the RTC Manila, with the requisite number of plain copies thereof, and of the pleadings and other material portions of the record as would support the allegations of the petition. **Dr. Agbayani's non-compliance with these requisites was sufficient to warrant the dismissal of the petition per Section 3 of the same Rule.**⁵³

Additionally, the CA stressed that Dr. Agbayani is mandated to file his appeal memorandum within 15 days from notice of the clerk of court, per Rule 40, Section 7 of the Rules of Court failing in which, as he did in this case, was sufficient ground for the RTC Manila to dismiss his appeal.⁵⁴

Finally, the CA highlighted that while rules of procedure are liberally construed to accord litigants ample opportunity to prove their respective claims and in order to avoid a possible denial of substantial justice due to legal technicalities, it is settled that an appeal is a statutory right which requires the appellant to strictly comply with the Rules of Court.⁵⁵

Dr. Agbayani subsequently moved for reconsideration⁵⁶ which the CA denied in a Resolution⁵⁷ dated October 23, 2014.

Determined, Dr. Agbayani immediately moved⁵⁸ for additional time to file a Petition for Review on *Certiorari* before the Court, which was granted in a Resolution⁵⁹ dated February 18, 2015. Thereafter, he filed the petition for review, docketed as **G.R. No. 215121, entitled "Dr. Benigno A. Agbayani, Jr. v. People of the Philippines."**⁶⁰

Primarily, Dr. Agbayani argued that his failure to attach all the pleadings and documents did not sufficiently justify the dismissal of his Petition for Review before the CA, invoking, in this respect, the liberal construction of the rules of procedure which the court applied in several instances. He claimed that a relaxation of the rules is warranted in his case since he was wrongfully convicted for the crime charged.⁶¹

Further, Dr. Agbayani insisted that the prosecution failed to prove that the arthroscope used on Saul was not sterile, which the MeTC, Branch 13

⁵³ *Id.* at 49–52.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Rollo* (G.R. No. 215121), pp. 224–230.

⁵⁷ *Id.* at 57.

⁵⁸ *Id.* at 3–4.

⁵⁹ *Id.* at 264.

⁶⁰ *Id.* at 12–44.

⁶¹ *Id.* at 23–37.

simply assumed. Likewise, he maintained that the prosecution also failed to prove that the infection on Saul's knee was due to his negligence during the arthroscopy.⁶²

Meanwhile, in the same February 18, 2015 Resolution, the Court, without necessarily giving due course to Dr. Agbayani's Petition, ordered therein respondent People of the Philippines (People) to comment on the Petition within ten days from notice.⁶³

Complying with the Court's directive, the People, through the Office of the Solicitor General (OSG), file its Comment⁶⁴ and argued that the CA correctly dismissed outright Dr. Agbayani's Petition for Review for being procedurally infirm and for lack of merit. The OSG stressed that the issues raised by Dr. Agbayani in his Petition before the CA essentially asked the CA to make a *prima facie* evaluation of the merits of the MeTC, Branch 13's judgment of conviction to determine whether the RTC Manila erred in not relaxing the application of the rules of procedure. As such, it was necessary for Dr. Agbayani to submit all relevant documents, including the documentary evidence submitted by the prosecution for the CA to properly assess his Petition. Dr. Agbayani, however, not only failed to submit the same even with his motion for reconsideration, after being informed by the CA of the need to do so, he also failed to offer any justifiable explanation for his failure to comply with this procedural requisite.⁶⁵

In this respect, the OSG asserted that the CA correctly upheld the RTC Manila's dismissal of Dr. Agbayani's appeal for his evident failure to comply with the rules of procedure, as well as to show the existence of any justifiable reason, or the presence of any compelling circumstances that would warrant the relaxation of the same.⁶⁶

Lastly, the OSG argued that Dr. Agbayani's Rule 45 Petition raises factual issues which are not proper in a Rule 45 petition where only questions of law are allowed.⁶⁷

Replying thereto, Dr. Agbayani essentially reiterated the arguments in his Petition, adding that the trial court patently erred and violated his constitutional rights to due process and to be presumed innocent until proven guilty beyond reasonable doubt.⁶⁸

⁶² *Id.* at 37-42.

⁶³ *Id.* at 264.

⁶⁴ *Id.* at 291-306.

⁶⁵ *Id.* at 296-299.

⁶⁶ *Id.* at 299-303.

⁶⁷ *Id.* at 303-304.

⁶⁸ *Id.* at 315-323.

The Court's Ruling

In a *Resolution*⁶⁹ dated June 23, 2021, the Court affirmed the CA's ruling with modification as to the penalty, imposing instead the penalty of imprisonment of one month and one day of *arresto mayor*, as minimum, to one year and one day of *prision correccional*, as maximum. Essentially, the Court held that:

- (i) while infirmities on the form of the petition may be waived, Dr. Agbayani failed to offer any reasonable justification or to comply with the deficiencies in his motion for reconsideration despite the CA's enumeration of the lacking documents;⁷⁰
- (ii) the latter should not have expected his motion for extension to be granted much less for the period sought for especially since, as case law settles, the filing of a memorandum is mandatory, and the failure to do so constitutes a ground for dismissal of the appeal;⁷¹ and
- (iii) the main issue in the criminal case before the MeTC, i.e., the non-sterilization of the arthroscope he inserted on the victim's knee during the operation which may have caused the growth of bacterial infection thereon, is a question of fact not proper in a Rule 45 petition where only questions of law are allowed.⁷²

Specifically, the Court explained:

Section 2(d), Rule 42 of the Rules of Court require the submission of clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the RTC, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations in the petition. [Dr.] Agbayani's Petition for Review before the appellate court lacked material portions of the record that would support his allegations in the petition which, as enumerated by the appellate court, are as follows: (a) Information dated January 22, 2006; (b) [Dr. Agbayani]'s Affidavits as well as [Saul's] Reply Affidavit filed before the MeTC; (c) witnesses' affidavits; (d) evidence of the prosecution; (e) [Agbayani]'s Comment and Opposition thereto; (f) [Agbayani]'s Answer; (g) RTC Order dated October 11, 2013; (h) [Dr. Agbayani]'s motions for extension filed on December 4, 2013, December 19, 2013 and January 3, 2014; (i) [Agbayani]'s motion for reconsideration of the RTC Order dated December 23, 2013; (j) [Dr. Agbayani]'s Memorandum on Appeal filed on January 10, 2014; and (k) all other pleadings filed before the lower courts.

⁶⁹ See Notice of Resolution in G.R. No. 215121. *Rollo*, pp. 54–62.

⁷⁰ *Id.* at 59–60.

⁷¹ *Id.* at 60–61.

⁷² *Id.* at 61.

[Dr. Agbayani] did not deny his omission to attach the above-mentioned pertinent pleadings and portions of the records to his Petition. When he filed his motion for reconsideration of the appellate court's April 29, 2014 Resolution, he still failed to attach the following material documents despite being informed by the appellate court, to wit: (a) [Dr. Agbayani]'s Affidavits as well as [Saul's] Reply Affidavit filed before the MeTC; (b) witnesses' affidavits; (c) evidence of the prosecution; (d) petitioner's Comment and Opposition thereto; and (e) [Dr. Agbayani]'s Answer.

In *Barcenas [v.] Spouses Tomas*, we declared that petitioners are required by the Rules of Court to provide the appellate court with certified true copies of the judgments or final order subject of review, as well as the material portions of the record. These documents and pleadings are needed by the reviewing courts in resolving whether to give due course to the petition. Hence, they should not be perfunctorily ignored or violated. Failure to comply with these rules hinders the review of cases on the merits and deprives the appellate court of definitive bases for its rulings, results in frustrating delays, and disrupts the orderly administration of justice.

Concededly, any infirmity on the form of the petition may be waived to give the parties a chance to argue their causes and defenses on the merits. The concerned party must, however, offer a satisfactory explanation and subsequently comply with the requirements to justify relaxation of the rules. Unfortunately, [Dr. Agbayani] failed to offer any reasonable justification or to comply with the deficiencies in his motion for reconsideration notwithstanding the enumeration of the lacking documents made by the appellate court.

As regards [Dr. Agbayani]'s failure to timely submit his appeal memorandum before the RTC, Section 7(b), Rule 40 of the Rules of Court explicitly states that failure of the appellant to file a memorandum within 15 days from filing a notice of appeal shall be a ground for the dismissal of such appeal. The issue on whether the filing of a memorandum is mandatory or not has already been settled in *Enriquez v. Court of Appeals, viz.:*

Rule 40, Section 7 (b) provides that, "it shall be the duty of the appellant to submit a memorandum" and failure to do so "shall be a ground for dismissal of the appeal." The use of the word "shall" in a statute or rule expresses what is mandatory and compulsory. Further, the Rule imposes upon an appellant the "duty" to submit his memorandum. A duty is a legal or moral obligation, mandatory act, responsibility, charge, requirement, trust, chore, function, commission, debt, liability, assignment, role, pledge, dictate, office, (and) engagement."

Thus, under the express mandate of said Rule, the appellant is duty-bound to submit his memorandum on appeal. Such submission is not a matter of discretion on his part. His failure to comply with this mandate or to perform said duty will compel the RTC to dismiss his appeal.

A perusal of the records reveals that [Dr. Agbayani] was granted an extension of 15 days or until December 19, 2013 within which to file his appeal memorandum. However, instead of submitting his memorandum, [Dr. Agbayani] filed two more motions for extension with the expectation that the same would be granted by the RTC. [Dr. Agbayani] should not

expect that his motions for extension would be granted much less for the period sought for.

His counsel's excuse of "heavy workload" does not persuade. It bears stressing that [Dr. Agbayani] had 15 days to file a notice of appeal, another 15 days to file a memorandum from such notice and an extension of 15 days to file the said memorandum. In sum, petitioner had 45 days to prepare his appeal memorandum which is more than sufficient for his counsel to complete the drafting, printing, proofreading and filing of his memorandum.

At this juncture, it must be stressed that an appeal is a statutory right and the party who intends to appeal must comply with the rules and procedures governing appeals, otherwise, the right to appeal may be lost.

Hence, [Dr. Agbayani] has only himself to blame for the dismissal of his appeal.

Finally, [Dr. Agbayani] raised the issue of the non-sterilization of the arthroscope he inserted on Hofilena, Jr.'s knee during the operation which may have caused the growth of bacterial infection on the latter's knee. Well-settled is the rule that in a petition for review on *certiorari* under Rule 45, this Court only dwells on questions of law and not questions of facts. There is a question of law when doubts or differences arise as to what law pertains to a certain state of facts, and a question of fact when the doubt pertains to the truth or falsity of alleged facts. Obviously, the sterilization or non-sterilization of the arthroscope is a question of fact as it involved a review of the probative value of the evidence presented before and considered by the MeTC. Besides, [Dr. Agbayani] had the opportunity to raise factual issues before the RTC and the CA. However, he failed to take advantage of the opportunity when he unjustifiably and unmeritoriously failed to submit an appeal memorandum.

In fine, we hold that the appellate court committed no reversible error when it dismissed outright [Dr. Agbayani]'s appeal for lack of merit. However, We deem it necessary to modify the penalty imposed by the MeTC. Article 365 of the Revised Penal Code provides that:

ART. 365. Imprudence and negligence. — Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period; if it would have constituted a less grave felony, the penalty of *arresto mayor* in its minimum and medium periods shall be imposed. . . .

Considering the circumstances of this case and applying the Indeterminate Sentence Law, We deem it proper to impose the penalty of one (1) month and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision coreccional*, as maximum.⁷³

Undeterred, Dr. Agbayani filed a Motion for Reconsideration⁷⁴ and

⁷³ *Id.* at 59–62.

⁷⁴ *Rollo* (G.R. No. 215121), pp. 354–378.

Supplemental Motion for Reconsideration⁷⁵ which the Court denied in a Resolution⁷⁶ dated March 16, 2022.

Adamant, Dr. Agbayani subsequently filed a Motion for Leave of Court to File Attached Second Motion for Reconsideration with Motion to Submit the Case to the Supreme Court *En Banc*.⁷⁷ In a Resolution⁷⁸ dated October 3, 2022, the Court denied said Motion because the *En Banc* is not an appellate court and noted without action the Second Motion for Reconsideration.⁷⁹

The Court's June 23, 2021 Resolution in G.R. No. 215121 became final and executory on March 16, 2022, per the Entry of Judgment⁸⁰ issued on February 2, 2023.⁸¹ The records of the case were subsequently remanded to the court of origin.⁸²

B. Events after the finality of the Court's Resolution

Upon notice to Dr. Agbayani, the MeTC, Branch 13 issued a Warrant of Arrest⁸³ dated May 24, 2023. Said arrest warrant was served on Dr. Agbayani the next day when he was initially detained at the Warrant and Subpoena Unit, Criminal Investigation Section of the Manila Police District 5, United Nations Avenue until June 2, 2023.⁸⁴

Subsequently, Dr. Agbayani filed before the MeTC, Branch 13 a Manifestation *Ad Cautelam* Motion to Allow Hospital Detention,⁸⁵ which was, however, denied in an Order⁸⁶ dated June 2, 2023. Said Order likewise directed Dr. Agbayani's transfer to Manila City Jail where he continued to be incarcerated.⁸⁷

Determined, Dr. Agbayani filed an Urgent Motion to Lift or Annul Warrant of Arrest with Entry of Appearance⁸⁸ insisting that the denial of his appeal for failure to file a memorandum on appeal is an incorrect application of the Rules resulting in the violation of his right to due process and, thus, prayed for the lifting of his Warrant of Arrest. Said Motion was, however, denied by the MeTC, Branch 13 in an Order⁸⁹ dated June 29, 2023 on the

⁷⁵ *Id.* at 407–420.

⁷⁶ *Id.* at 390–391.

⁷⁷ *Id.* at 491–524.

⁷⁸ *Id.* at 672–674.

⁷⁹ *Id.* at 529–576.

⁸⁰ *Id.* at 675.

⁸¹ *Id.* at 678.

⁸² *Id.* at 683.

⁸³ *Rollo*, p. 35.

⁸⁴ *Id.* at 12.

⁸⁵ Not attached to the *rollo*.

⁸⁶ Not attached to the *rollo*.

⁸⁷ *Rollo*, p. 12.

⁸⁸ *Id.* at 226–239.

⁸⁹ *Id.* at 240–241. Penned by Pairing Judge Carolina J. Esguerra.

ground that the arguments raised therein were already passed upon by the Court in the June 23, 2021 Resolution which had already become final and executory on March 16, 2022. Thus, the MeTC, Branch 13 ruled that the only matter left is for the court to execute the judgment which it had done when it issued the Warrant of Arrest.⁹⁰

Undeterred, Dr. Agbayani filed a Motion for Reconsideration on July 21, 2023 but was denied in the Order⁹¹ dated September 5, 2023. Meanwhile, Dr. Agbayani likewise filed a Motion for Release from Imprisonment on August 4, 2023 which the MeTC, Branch 13 denied in the Order⁹² dated August 22, 2023 on the ground that the case has already attained finality and the matter of the grant of parole must be addressed to the Board of Pardons and Parole.

C. *The Present Petition*

In view of the foregoing developments, Angeli, as the common-law spouse of Dr. Agbayani, filed the present Petition for *Habeas Corpus* on September 8, 2023, arguing that the latter is being deprived of his liberty without due process of law and under a void judgment that has not become final and executory.⁹³ Particularly, Angeli insists that the December 23, 2013 Order of the RTC Manila dismissing Dr. Agbayani's appeal was issued in violation of due process and, hence, is null and void *ab initio* subject to collateral attack via a petition for *habeas corpus*. Since the RTC Manila's Order is void *ab initio*, the Warrant of Arrest issued by the MeTC, Branch 13 has no legal effect and cannot validly deprive Dr. Agbayani of his liberty.⁹⁴

Assuming *arguendo* that Dr. Agbayani's conviction has become final, Angeli argues that the former has completely served the correct sentence corresponding to the subject felony. In this regard, Angeli points out that Dr. Agbayani has been languishing in jail for more than three months⁹⁵ or more than the proper penalty for reckless imprudence resulting in serious physical injuries.⁹⁶

The Issue before the Court

The issue before the Court is whether a Writ of *Habeas Corpus* should be issued.

⁹⁰ *Id.* at 241.

⁹¹ *Id.* at 259.

⁹² *Id.* at 268.

⁹³ *Id.* at 6.

⁹⁴ *Id.* at 13–25.

⁹⁵ *Id.* at 6 & 12.

⁹⁶ *Id.* at 25–28.

The Court's Ruling

The Petition is dismissed.

The Petition for Habeas Corpus is the wrong remedy

A Petition for *Habeas Corpus* is a proper remedy for a person illegally deprived of liberty. It exists as a speedy and effective remedy to relieve persons from unlawful restraint.⁹⁷ Rule 102, Section 1 of the Rules of Court provides the scope of a writ of *habeas corpus*, this includes “all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto.” Case law holds that the “primary purpose of the writ ‘is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal.’ ‘Any restraint which will preclude freedom of action is sufficient.’”⁹⁸

Conversely, however, “if it appears that the *person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order,*” **the writ shall not be allowed nor the discharge of the person shall be authorized. Neither shall the remedy of a petition for *habeas corpus* authorize the discharge of a person “convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment.”**⁹⁹

Under Rule 102, Section 2 of the Rules of Court, an application for a writ of *habeas corpus* may be made through a petition filed before the Court or any of its members, the CA or any of its members in instances authorized by law, or the RTC or any of its presiding judges.

In this case, and as shown by the foregoing factual narrations, Dr. Agbayani was charged with and convicted for the crime of reckless imprudence resulting in serious physical injuries by the MeTC, Branch 13 in Criminal Case No. 052772-CN and was, thus, sentenced to suffer imprisonment of two years of *prision correccional* minimum, in a Judgment dated July 29, 2013. Dr. Agbayani's subsequent appeal from his conviction was dismissed by the RTC Manila on December 23, 2013.

⁹⁷ *Mangila v. Pangilinan*, 714 Phil. 204, 208–209 (2013) [Per J. Bersamin, First Division]. See also *Barredo v. Vinarao*, 555 Phil. 823, 827 (2007) [Per J. Corona, First Division].

⁹⁸ See *In the Matter of the Petition for Habeas Corpus of Datukan Malang Salibo v. Warden, Quezon City Jail Annex*, 757 Phil. 630, 644 (2015) [Per J. Leonen, Second Division].

⁹⁹ RULES OF COURT, Rule 102, sec. 4.

Moreover, as Angeli herself admitted, and as the records show, *the dismissal by the RTC Manila of Dr. Agbayani's appeal was already upheld by the Court* in the following: (a) **Resolution dated June 23, 2021 denying his Petition for Review on Certiorari**; (b) **Resolution dated March 16, 2022 denying his Motion for Reconsideration and Supplemental Motion for Reconsideration**; and (c) **Resolution dated October 3, 2022 which denied his Motion to elevate the case to the Court *En Banc* and noted without action his Second Motion for Reconsideration**. The foregoing Court's rulings had already become final and executory for which reason the MeTC, Branch 13 issued the warrant for his arrest resulting in the subsequent restraint of his liberty.

Under Article 365 of the Revised Penal Code, a person found guilty of reckless imprudence shall suffer the penalty of *arresto mayor* in its maximum period, which ranges from four months and one day to six months, to *prision correccional* in its medium period, which ranges from two years, four months, and one day to four years and two months. Meanwhile, Batas Pambansa Bilang 129 vests MeTCs with the exclusive original jurisdiction over all offenses punishable with imprisonment *not exceeding six years*. Verily, the MeTC, Branch 13 which rendered the July 29, 2013 Judgment against Dr. Agbayani and subsequently issued the Warrant of Arrest upon finality of the Court's rulings denying his Petition had jurisdiction to issue the same. Consequently, the Court is hard-pressed to conclude that the imprisonment of Dr. Agbayani or the restraint in his liberty was tainted with any illegality to justify the issuance of a writ of *habeas corpus*.

In simpler terms, *the arrest and detention/incarceration of Dr. Agbayani was the result of a process issued by a court or judge or by virtue of a judgment or order of a court of record which has jurisdiction to issue the same*. As a person "convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment," Dr. Agbayani is rightfully held under custody for which the remedy of a writ of *habeas corpus* cannot lie. It must be stressed that **the writ of *habeas corpus* shall not be allowed, nor the discharge of the person shall be authorized when the person alleged to be restrained of his liberty is convicted of an offense in the Philippines and thus, was suffering imprisonment under lawful judgment**.

Moreover, since the Court's Resolutions dated June 23, 2021, March 16, 2022, and October 3, 2022 had already become final and executory and therefore immutable, the legal correctness of the RTC Manila's dismissal of Dr. Agbayani's appeal can no longer be assailed even in the present petition for *habeas corpus*, the same being an extraordinary remedy the primary purpose of which is to inquire into all manner of involuntary restraint—not the legal correctness of a court's decision.

Case law settles that once a judgment lapses into finality, it becomes immutable and unalterable. As such, it may no longer be modified or amended by any court in any manner even if the purpose of the modification or amendment is to correct perceived errors of law or fact. This principle, known as the doctrine of immutability of judgment, is a matter of sound public policy, which rests upon the practical consideration that every litigation must come to an end and to avoid delay in the administration of justice. To be sure, the doctrine recognizes several exceptions, namely: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.¹⁰⁰

None of the exceptions apply in this case since Angeli essentially asks the Court to revisit the December 23, 2013 Order of the RTC Manila dismissing Dr. Agbayani's appeal on the ground that it was purportedly issued in violation of Dr. Agbayani's due process rights and, hence, is void. Verily, the perceived nullity of the RTC Manila's Order does not entail mere correction of clerical errors or *nunc pro tunc* entries nor does it present a circumstance that renders the execution of the MeTC, Branch 13 Judgment unjust and inequitable. Lastly, it bears stressing that the legal correctness of the RTC Manila's dismissal of Dr. Agbayani's appeal for failure to file the memorandum of appeal within the extended period has already been decided by the Court with finality. Thus, the Court's June 23, 2021, March 16, 2022, and October 3, 2022 rulings on this issue constitutes *res judicata* to the present Petition that essentially challenges the validity and legal correctness of the RTC Manila's dismissal of Dr. Agbayani's appeal.

The petition for habeas corpus was filed in violation of the principle of hierarchy of courts

Finally, the Petition for *Habeas Corpus* should have been filed before the lower court pursuant to the principle of hierarchy of courts. The hierarchy principle commands that cases must first be brought before the lowest court with jurisdiction, and not before the higher courts. Petitions for *habeas corpus* fall under the concurrent jurisdiction of the RTC, the CA, and the Court, and hence, should have been filed before the RTC.

Supervening events rendered the present petition for habeas corpus moot and academic

On October 27, 2023, Angeli, through counsel, informed the Court via

¹⁰⁰ See *Gerobiese v. People*, G.R. No. 221006, July 7, 2021 [Per J. Leonen, Third Division], citing *Mercury Drug v. Spouses Huang*, 817 Phil. 434, 445-446 (2017) [Per J. Leonen, Third Division].

Manifestation and Motion,¹⁰¹ that Dr. Agbayani passed away on October 5, 2023 at the Jose Reyes Memorial Medical Center. A copy of Dr. Agbayani's Death Certificate¹⁰² was attached to said Motion. Nonetheless, Angeli implores the Court to resolve the petition, despite the apparent mootness, since the unwarranted dismissal of the appeal by the RTC Manila in grave violation of Dr. Agbayani's constitutional due process rights, the situation is of an exceptional character and paramount public interest is involved, the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, the public, and the case is capable of repetition yet evading review. Angeli reiterated the foregoing arguments in her Compliance¹⁰³ filed on December 18, 2023.

A case becomes moot and academic **when the conflicting issue that may be resolved ceases to exist as a result of supervening events such that a declaration thereon would be of no practical value.**¹⁰⁴ A “moot and academic” case is one that *ceases to present a justiciable controversy* over which courts can exercise judicial power. Thus, as a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.¹⁰⁵

The principle on mootness traces its roots from the express constitutional decree that judicial power—with which the Supreme Court (and all other courts that may be established by law) is vested—includes the duty to “*settle actual controversies*” “involving rights which are legally demandable and enforceable.”¹⁰⁶ While judicial power has been expanded under the present Constitution by including the power to “determine whether or not there has been a grave abuse of discretion”¹⁰⁷ on the part of any branch or instrumentality of the Government, it remains that judicial power must be based on an *actual case or controversy* at whose core is the existence of a right which is legally demandable and enforceable. Without this core element of *actual case or controversy*, courts have no jurisdiction to act.¹⁰⁸

Case law defines *actual case or controversy* as one “that is appropriate or ripe for determination, **not conjectural or anticipatory**, lest the decision of the court would amount to an advisory opinion. The power does not extend to hypothetical questions since any attempt at abstraction could only lead to

¹⁰¹ *Rollo*, pp. 63–68.

¹⁰² *Id.* at 69.

¹⁰³ *Rollo*, pp. 74–108. Complying with the Court's Resolution dated October 25, 2023 (*id.* at 269) requiring the parties to move in the premises by informing the Court of subsequent developments pertinent to the case.

¹⁰⁴ *Timbol v. COMELEC*, 754 Phil. 578, 584–585 (2015) [Per J. Leonen, *En Banc*]; *Alliance for Rural and Agrarian Reconstruction, Inc. v. COMELEC*, 723 Phil. 160, 183 (2013) [Per J. Leonen, *En Banc*].

¹⁰⁵ *Timbol v. COMELEC*, 754 Phil. 578, 584–585 (2015) [Per J. Leonen, *En Banc*]; *Alliance for Rural and Agrarian Reconstruction, Inc. v. COMELEC*, 723 Phil. 160, 183 (2013) [Per J. Leonen, *En Banc*].

¹⁰⁶ *See* CONSTITUTION, art. VIII, sec. 1.

¹⁰⁷ *Id.*

¹⁰⁸ *See* Associate Justice Arturo D. Brion, Concurring and Dissenting Opinion in *The Province of North Cotabato v. The Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*, 589 Phil. 387, 679 (2008) [Per J. Carpio Morales, *En Banc*]. *See also* *David v. Macapagal-Arroyo*, 522 Phil. 705, 766–767 (2006) [Per J. Sandoval-Gutierrez, *En Banc*].

dialectics and barren legal question and to sterile conclusions unrelated to actualities.”¹⁰⁹

Because the existence of an *actual case or controversy* is an indispensable requirement in the exercise of judicial power, courts, including the Court, should be very cautious in conducting a review of an otherwise moot petition. Indeed, **“where an issue is moot on its face, the application of any of the exceptions should be subjected to a strict test because it is a deviation from the general rule. The Court should carefully test the exceptions to be applied from the perspectives both of *legality and practical effects* and show by these standards that the issue absolutely requires to be resolved.”**¹¹⁰ Consequently, *any exception that the Court has recognized to the rule on mootness must be justified only by an implied recognition that a continuing controversy exists.*

To be sure, case law recognizes exceptions to the mootness doctrine which permit courts to resolve otherwise moot and academic cases. The exceptions include: (i) grave violation of the Constitution; (ii) exceptional character of the situation and paramount public interest; (iii) when the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and (iv) the case is capable of repetition yet evading review.¹¹¹

Applying the foregoing precepts, the Court finds that the present Petition for *Habeas Corpus* has been rendered moot by the supervening death of Dr. Agbayani thereby precluding the Court from further exercising its judicial power for lack of a justiciable controversy. Further, and contrary to Angeli’s argument, none of the exceptions to the mootness principle are present in this case that would justify continued exercise of the Court’s jurisdiction.

In this respect, it bears reiterating that the purpose of a petition for *habeas corpus* is to seek the relief of persons from unlawful restraint. Verily, the supervening death of Dr. Agbayani in this case effectively relieved him from his incarceration, thus, rendering the petition moot and academic. At any rate, as elsewhere discussed in this Resolution, the arrest and detention/incarceration of Dr. Agbayani was lawful, resulting from a process issued by a court or judge or of a judgment or order of a court of record which has jurisdiction to issue the same. As such, the writ of habeas corpus cannot be allowed since Dr. Agbayani was convicted of an offense in the Philippines and thus, was suffering imprisonment under lawful judgment.

¹⁰⁹ *Zabal v. Duterte*, 846 Phil. 743, 787 (2019) [Per J. Del Castillo, *En Banc*], citing *La Bugal-B’laan Tribal Association, Inc. v. Sec. Ramos*, 465 Phil. 860, 889–890 (2004) [Per J. Panganiban, *En Banc*].

¹¹⁰ See Associate Justice Arturo D. Brion, Concurring and Dissenting Opinion in *The Province of North Cotabato v. The Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*, 589 Phil. 387, 680–681 (2008) [Per J. Carpio Morales, *En Banc*].

¹¹¹ See *Belgica v. Ochoa*, 721 Phil. 416, 522 (2013) [Per J. Perlas-Bernabe, *En Banc*].

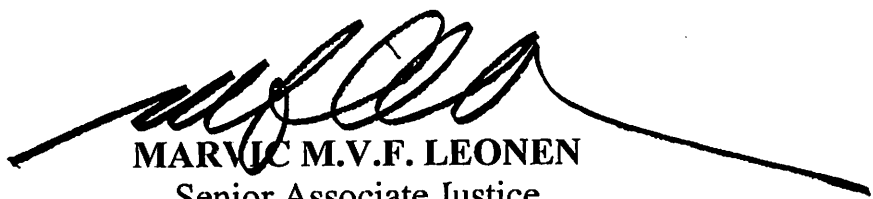
All told, the Petition for *Habeas Corpus* is dismissed for being the wrong remedy and for violation of the hierarchy of court principle. At any rate, the petition is moot and academic.

ACCORDINGLY, the Petition for *Habeas Corpus* is **DISMISSED**.

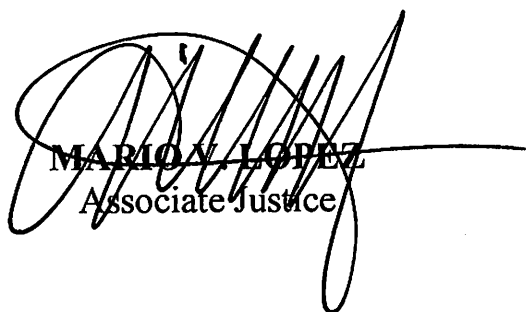
SO ORDERED.


ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson


On official business
AMY C. LAZARO-JAVIER
Associate Justice


MARIA LOPEZ
Associate Justice


JHOSEP LOPEZ
Associate Justice

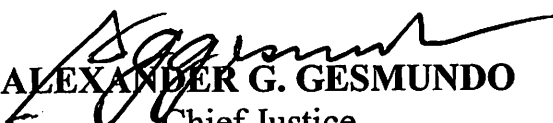
A T T E S T A T I O N

I attest 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.


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

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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