



Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY
Welfredo V. Lapid
WILFREDO V. LAPIDAN
 Division Clerk of Court
 Third Division

JUL 31 2018

THIRD DIVISION

MELITA O. DEL ROSARIO,
 Petitioner,

G.R. No. 199930

Present:

VELASCO, JR., J., *Chairperson,*
 BERSAMIN,
 LEONEN,
 *JARDELEZA, and
 GESMUNDO, JJ.

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,
 Respondents.

June 27, 2018

x-----*Welfredo V. Lapidan*-----x

DECISION

BERSAMIN, J.:

To be resolved is whether or not the eight-year prescriptive period for the offense the petitioner committed in violation of Republic Act No. 6713 (*Code of Conduct and Ethical Standards for Public Officials and Employees*) should be reckoned from the filing of the detailed sworn statement of assets, liabilities and net worth (SALN), or from the discovery of the non-filing thereof.

It is notable that the informations filed against the petitioner alleged her violation of R.A. No. 6713 for having “fail[ed] to file her detailed sworn SALN for the year 1990/1991, which the law requires to be filed on or before the 30th of April following the close of every calendar year.” Based on the allegations of the informations, the eight-year prescriptive period under Act No. 3326 (*An Act to Establish Prescription for Violations of Special Acts and Municipal Ordinances and to Provide When Prescription shall Begin*) was applicable in view of the silence of R.A. No. 6713 on the prescriptive period for a violation thereof.

* In lieu of Associate Justice Samuel R. Martires, who participated in the Sandiganbayan, per the raffle of May 16, 2018.

Although R.A. No. 3019 (*Anti-Graft and Corrupt Practices Act*) and R.A. No. 6713 both punish the failure to file the SALN, we need to clarify that the 15-year prescriptive period explicitly provided in Section 11 of R.A. No. 3019 was not relevant. The violation of Section 7¹ of R.A. No. 3019 – which requires the “*filing or submission of SALN, after assuming office, and within the month of January of every other year thereafter, as well as upon the expiration of a public officer’s term of office, or upon his resignation or separation from office*” – was not alleged in the information.

R.A. No. 6713 – enacted in 1989 – was a much later law than R.A. No. 3019, which was adopted on August 17, 1960. As the mandatory requirement for the filing of SALNs currently exists, therefore, the public official or employee should file and submit the SALN “*on or before April 30, of every year*” as required by R.A. No. 6713 instead of filing the same “*within the month of January of every other year*” pursuant to R.A. No. 3019. Verily, R.A. No. 6713 – by reflecting who are required to file the SALN, who are exempt from the requirement, when should the SALN be filed, and what should be included and disclosed in the SALN – embodies the latest legislative word on transparency and public accountability of public officers and employees.

The Case

The petitioner seeks the review and reversal of the adverse decision promulgated on August 16, 2011,² whereby the Sandiganbayan set aside the ruling of the Regional Trial Court (RTC), Branch 32, in Manila upholding the orders issued on September 18, 2009³ and April 23, 2010⁴ by the Metropolitan Trial Court (MeTC), Branch 21, in Manila granting her motion to quash the informations charging her with violations of Section 8 of R.A. No. 6713 for the non-filing of her SALNs for the years 1990 and 1991.

Antecedents

On October 28, 2004, the General Investigation Bureau-A of the Office of the Ombudsman brought a complaint charging the petitioner with

¹ Section 7. Statement of assets and liabilities. — Every public officer, within thirty days after assuming office, and within the month of January of every year thereafter, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or Chief of an independent office, with the Office of the President, a true detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year; Provided, That public officers assuming office less than two months before the end of the calendar year, may file their first statement, on the following month of January.

² *Rollo*, pp. 9-18; penned by Associate Justice Alex L. Quiroz, with the concurrence of Associate Justice Samuel R. Martires (now a Member of the Court) and Associate Justice Francisco H. Villaruz, Jr.

³ *Id.* at 109-112; penned by Presiding Judge Danilo A. Buemio.

⁴ *Id.* at 119-122.

the violation of Section 8 of R.A. No. 6713; dishonesty; grave misconduct; and conduct prejudicial to the best interest of the service for her failure to file her SALNs for the years 1990 and 1991.

On March 11, 2008, the Office of the Ombudsman criminally charged the petitioner in the MeTC with two violations,⁵ the informations therefor being docketed as Criminal Case No. 444354 and Criminal Case No. 444355, to wit:

Criminal Case No. 444354

That sometime in the year of 1991, in Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused public officer Melita O. Del Rosario, being a government employee holding the position of Chief of Valuation and Classification Division-Office of the Commissioner (VCD-OCOM), Bureau of Customs, Port Area, Manila, did then and there, willfully, unlawfully and criminally fail to file her detailed sworn Statement of Assets, Liabilities and Net worth (SALN) for the year 1990 which the law requires to be filed on or before the thirtieth (30th) day of April following the close of every calendar year.

Contrary to Law.⁶

Criminal Case No. 444355

That sometime in the year of 1992, in Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused public officer Melita O. Del Rosario, being a government employee holding the position of Chief of Valuation and Classification Division-Office of the Commissioner (VCD-OCOM), Bureau of Customs, Port Area, Manila, did then and there, willfully, unlawfully and criminally fail to file her detailed sworn Statement of Assets, Liabilities and Networth (SALN) for the year 1991 which the law requires to be filed on or before the thirtieth (30th) day of April following the close of every calendar year.

Contrary to law.⁷

On November 19, 2008, the petitioner filed a *Motion to Quash* in Criminal Case No. 444354 and Criminal Case No. 444355 on the ground of prescription of the offenses.⁸

On September 18, 2009,⁹ the MeTC granted the *Motion to Quash*.

⁵ Id. at 10.

⁶ Id.

⁷ Id. at 10-11.

⁸ Id. at pp. 95-96; and 97-98.

⁹ Id. at 109-112.

The State moved for the reconsideration of the quashal of the informations,¹⁰ but the MeTC affirmed the quashal on April 23, 2010.¹¹

The State appealed to the RTC praying that the quashal be annulled and set aside.¹²

In its decision dated October 6, 2010,¹³ the RTC upheld the assailed orders of the MeTC.¹⁴

Undeterred, the State elevated the decision of the RTC to the Sandiganbayan, arguing that the RTC had erred in ruling that the eight-year prescriptive period for violation of Section 8 of R.A. No. 6713 commenced to run on the day of the commission of the violations, not from the discovery of the offenses.¹⁵

On August 16, 2011, the Sandiganbayan promulgated its assailed decision overturning the RTC,¹⁶ and disposing thusly:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Manila, Branch 32 denying the appeal of herein petitioner in Criminal Case Nos. 10-276311-12 and entitled *People of the Philippines versus Melita O. del Rosario*, promulgated on October 6, 2010, is **REVERSED**. The Metropolitan Trial Court of Manila, Branch 21 is also **ORDERED** to proceed with the trial of Criminal Case Nos. 444354-55.

SO ORDERED.¹⁷

The Sandiganbayan pointed out that “it would be difficult for the Ombudsman to know of such omission on the part of the public official or employee on the date of filing itself;” that in *Benedicto v. Abad Santos, Jr.*¹⁸ and *People v. Monteiro*,¹⁹ in which the employers had not registered their employees with the Social Security System (SSS), it was ruled that the period of prescription began from the discovery of the violations; that it would be dangerous to maintain otherwise inasmuch as the successful concealment of the offenses during the prescriptive period would be the very means by which

¹⁰ Id. at 113-118.

¹¹ Id. at 119-122.

¹² Id. at 125-134.

¹³ Id. at 140-147; penned by Presiding Judge Thelma Bunyi-Medina.

¹⁴ Id. at 10-11.

¹⁵ Id. at 12.

¹⁶ Id. at 9-18.

¹⁷ Id. at 17.

¹⁸ G.R. No. 74689, March 21, 1990, 183 SCRA 434.

¹⁹ G.R. No. L-49454. December 21, 1990, 192 SCRA 548.

the offenders would escape punishment;²⁰ and that reckoning the prescriptive period from the date of the commission of the offenses would defeat the purpose for which R.A. No. 6713 was enacted, which was to temper or regulate “the harsh compelling realities of public service with its ever-present temptation to heed the call of greed and avarice.”²¹

Dissatisfied by the adverse outcome, the petitioner now comes to the Court to assail the adverse decision of the Sandiganbayan.

Issue

Did the period of prescription of the offenses charged against the petitioner start to run on the date of their discovery instead of on the date of their commission?²²

Ruling of the Court

The appeal has merit.

In applying the discovery rule, the Sandiganbayan relied on the rulings handed down in the so-called Behest Loans Cases,²³ whereby the prescriptive period was reckoned from the date of discovery of the offenses. The Sandiganbayan explained that it would be difficult for the Office of the Ombudsman to know on the required dates of filing of the failure to file the SALNs on the part of the erring public officials or employees; and that to suggest that the Civil Service Commission (CSC), the Office of the Ombudsman and any other concerned agency should come up with a tracking system to ferret out the violators of R.A. No. 6713 on the dates of the filing of the SALNs would not only be burdensome, but highly impossible.

The Sandiganbayan erred in applying the discovery rule to the petitioner’s cases.

Section 8 of R.A. No. 6713 mandates the submission of the sworn SALNs by all public officials and employees, stating therein all the assets, liabilities, net worth and financial and business interests of their spouses, and

²⁰ *Rollo*, p. 16.

²¹ *Id.*

²² *Id.* at 36.

²³ *Presidential Ad Hoc Committee on Behest Loans v. Tabasondra*, G.R. No. 133756, July 4, 2008, 557 SCRA 31; *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Ombudsman*, G.R. No. 135350, March 3, 2006, 484 SCRA 16; *Presidential Commission on Good Government v. Desierto*, G.R. No. 135119, October 21, 2004, 441 SCRA 106; *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*, G.R. No. 130817, August 22, 2001, 363 SCRA 489.

of their unmarried children under 18 years of age living in their households. Paragraph (A) of Section 8 sets three deadlines for the submission of the sworn SALNs, specifically: (a) within 30 days from the assumption of office by the officials or employees; (b) on or before April 30 of every year thereafter; and (c) within 30 days after the separation from the service of the officials or employees.

R.A. No. 6713 does not expressly state the prescriptive period for the violation of its requirement for the SALNs. Hence, Act No. 3326 – the law that governs the prescriptive periods for offenses defined and punished under special laws that do not set their own prescriptive periods²⁴ – is controlling. Section 1 of Act No. 3326 provides:

Section 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) after a year for offenses punished only by a fine or by imprisonment for not more than one month, or both; (b) after four years for those punished by imprisonment for more than one month, but less than two years; **(c) after eight years for those punished by imprisonment for two years or more, but less than six years;** and (d) after twelve years for any other offense punished by imprisonment for six years or more, except the crime of treason, which shall prescribe after twenty years. Violations penalized by municipal ordinances shall prescribe after two months.

The complaint charging the petitioner with the violations was filed only on October 28, 2004, or 13 years after the April 30, 1991 deadline for the submission of the SALN for 1990, and 12 years after the April 30, 1992 deadline for the submission of the SALN for 1991. With the offenses charged against the petitioner having already prescribed after eight years in accordance with Section 1 of Act No. 3326, the informations filed against the petitioner were validly quashed.

The relevant legal provision on the reckoning of the period of prescription is Section 2 of Act No. 3326, to wit:

Section 2. Prescription of violation penalized by special law shall begin to run from the day of the commission of the violation of the law, and if the violation be not known at the time from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.

Under Section 2, there are two modes of determining the reckoning point when prescription of an offense runs. The first, to the effect that prescription shall “run from the day of the commission of the violation of the

²⁴ *Panaguiton, Jr. v. Department of Justice*, G.R. No. 167571, November 25, 2008, 571 SCRA 549, 558.

law,” is the general rule. We have declared in this regard that the fact that any aggrieved person entitled to an action has no knowledge of his right to sue or of the facts out of which his right arises does not prevent the running of the prescriptive period.²⁵ The second mode is an exception to the first, and is otherwise known as the discovery rule.

Under the rulings in the Behest Loans Cases,²⁶ the discovery rule, which is also known as the blameless ignorance doctrine, stipulates that:

x x x the statute of limitations runs only upon discovery of the fact of the invasion of a right which will support a cause of action. In other words, the courts would decline to apply the statute of limitations where the plaintiff does not know or has no reasonable means of knowing the existence of a cause of action.²⁷

The application of the discovery rule was amply discussed in the 2014 ruling in *Presidential Commission on Good Government (PCGG) v. Carpio-Morales*,²⁸ which cited a number of rulings involving violations of R.A. No. 3019. The Court said therein:

In the 1999 and 2011 cases of *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*, the Court, in said separate instances, reversed the ruling of the Ombudsman that the prescriptive period therein began to run at the time the behest loans were transacted and instead, it should be counted from the date of the discovery thereof.

In the 1999 case, **We recognized the impossibility for the State, the aggrieved party, to have known the violation** of RA 3019 at the time the questioned transactions were made **in view of the fact that the public officials concerned connived or conspired with the “beneficiaries of the loans.”** There, We agreed with the contention of the Presidential *Ad Hoc* Fact-Finding Committee that the prescriptive period should be computed from the discovery of the commission thereof and not from the day of such commission. x x x

Similarly, in the 2011 *Desierto* case, **We ruled that the “blameless ignorance” doctrine applies considering that the plaintiff therein had no reasonable means of knowing the existence of a cause of action.** In this particular instance, We pinned the running of the prescriptive period to the completion by the Presidential *Ad Hoc* Fact-Finding Committee of an exhaustive investigation on the loans. We elucidated that the first mode under Section 2 of Act No. 3326 would not apply since during the Marcos regime, no person would have dared to question the legality of these transactions.

²⁵ *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*, G.R. No. 135715, April 13, 2011, 648 SCRA 586, 596.

²⁶ *Supra*, note 23.

²⁷ *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*, *supra*, note 25.

²⁸ G.R. No. 206357, November 12, 2014, 571 SCRA 368, 378-379.

Prior to the 2011 *Desierto* case came Our 2006 Resolution in *Romualdez v. Marcelo*, which involved a violation of Section 7 of RA 3019. In resolving the issue of whether or not the offenses charged in the said cases have already prescribed, We applied the same principle enunciated in *Duque* and ruled that the prescriptive period for the offenses therein committed began to run from the discovery thereof on the day former Solicitor General Francisco I. Chavez filed the complaint with the PCGG.

This was reiterated in *Disini v. Sandiganbayan* where We counted the running of the prescriptive period in said case from the date of discovery of the violation after the PCGG's exhaustive investigation despite the highly publicized and well-known nature of the Philippine Nuclear Power Plant Project therein involved, **recognizing the fact that the discovery of the crime necessitated the prior exhaustive investigation and completion** thereof by the PCGG.

In *Republic v. Cojuangco, Jr.*, however, We held that not all violations of RA 3019 require the application of the second mode for computing the prescription of the offense. There, this Court held that the second element for the second mode to apply, i.e., that the action could not have been instituted during the prescriptive period because of martial law, is absent. **This is so since information about the questioned investment therein was not suppressed from the discerning eye of the public nor has the Office of the Solicitor General made any allegation to that effect.** This Court likewise faulted therein petitioner for having remained dormant during the remainder of the period of prescription despite knowing of the investment for a sufficiently long period of time.

An evaluation of the foregoing jurisprudence on the matter reveals the following guidelines in the determination of the reckoning point for the period of prescription of violations of RA 3019, viz.:

1. As a general rule, prescription begins to run from the date of the commission of the offense.
2. If the date of the commission of the violation is not known, it shall be counted from the date of discovery thereof.
3. In determining whether it is the general rule or the exception that should apply in a particular case, the availability or suppression of the information relative to the crime should first be determined.

If the necessary information, data, or records based on which the crime could be discovered is readily available to the public, the general rule applies. Prescription shall, therefore, run from the date of the commission of the crime.

Otherwise, should martial law prevent the filing thereof or should information about the violation be suppressed, possibly through connivance, then the exception applies and the period of prescription shall be reckoned from the date of discovery thereof. (Bold underscoring supplied for emphasis)²⁹

²⁹ Id. at 378-381.

Conformably with the foregoing, we cannot apply the discovery rule or the blameless ignorance doctrine to the criminal charges against the petitioner herein.

First of all, the Sandiganbayan unjustifiably relied on the rulings in *Benedicto v. Abad Santos, Jr.*³⁰ and *People v. Monteiro*.³¹ In *Benedicto v. Abad Santos, Jr.*, where the information was filed 10 years after the SSS discovered the violation, the Court ruled therein that the crime charged already prescribed pursuant to Act No. 3326. In *People v. Monteiro*, there was a finding of a successful concealment of the offense during the period fixed for its prescription. But the facts and circumstances obtaining therein are not on all fours with those herein simply because the petitioner neither concealed her omissions nor conspired with others to conceal them. Also of significance is that Section 8³² of R.A. No. 6713 has stipulated the accessibility of the SALNs to the public for copying or inspection at reasonable hours. Under the circumstances, the State had no reason not to be presumed to know of her omissions during the eight-year period of prescription set in Act No. 3326.

The Sandiganbayan's reliance on *Presidential Ad Hoc Fact-Finding Committee v. Desierto*³³ was misplaced. Therein, the concealment and supposed connivance and conspiracy among the concerned public officials were emphatically mentioned as factors for applying in the reckoning of the period of prescription the second mode instead of the general rule. The Court further noted that prior to the ouster of President Marcos through the February 1986 EDSA Revolution, the Government as the aggrieved party could not have known of the violations when the questioned transactions were made; and that no person would have dared to assail the legality of the transactions at that time.

The guidelines summarized in *Presidential Commission on Good Government v. Carpio-Morales*³⁴ already settled how to determine the proper reckoning points for the period of prescription. Whether it is the general rule or the exception that should apply in a particular case depends on the availability or the suppression of information relative to the crime

³⁰ Supra note 18.

³¹ Supra note 19.

³² Section 8 (C) Accessibility of documents. —

(1) Any and all statements filed under this Act, shall be made available for inspection at reasonable hours.

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.

(3) Any person requesting a copy of a statement shall be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

³³ Supra note 25.

³⁴ Supra note 28.

should first be ascertained. If the information, data, or records from which the crime is based could be plainly discovered or were readily available to the public, as in the case of the petitioner herein, the general rule should apply, and prescription should be held to run from the commission of the crime; otherwise, the discovery rule is applied.

Secondly, when there are reasonable means to be aware of the commission of the offense, the discovery rule should not be applied. To prosecute an offender for an offense not prosecuted on account of the lapses on the part of the Government and the officials responsible for the prosecution thereof or burdened with the duty of making sure that the laws are observed would have the effect of condoning their indolence and inaction.

We fully concur with the observations of the RTC to the effect that the offenses charged against the petitioner were not susceptible of concealment. As such, the offenses could have been known within the eight-year period starting from the moment of their commission. Indeed, the Office of the Ombudsman or the CSC, the two agencies of the Government invested with the primary responsibility of monitoring the compliance with R.A. No. 6713, should have known of her omissions during the period of prescription.

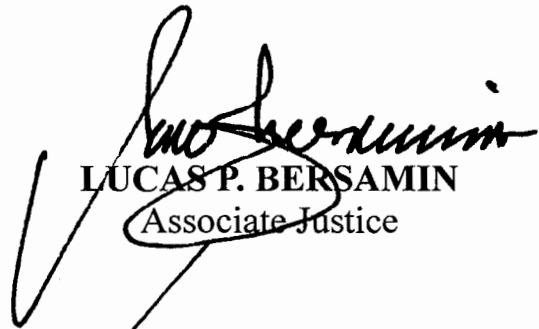
Thirdly, the Sandiganbayan's opinion that it would be burdensome and highly impossible for the CSC, the Office of the Ombudsman and any other concerned agency of the Government to come up with a tracking system to ferret out the violators of R.A. No. 6713 on or about the time of the filing of the SALNs is devoid of persuasion and merit.

The CSC and the Office of the Ombudsman both issued memorandum circulars in 1994 and 1995 to announce guidelines or procedures relative to the filing of the SALNs pursuant to R.A. No. 6713. Ombudsman Memorandum Circular No. 95-13 (*Guidelines/Procedures on the Filing of Statements of Assets, Liabilities and Networth and Disclosures of Business Interests and Financial Connections with the Office of the Ombudsman Required under Section 8, Republic Act No. 6713*) publicized that the Office of the Ombudsman would create a task force that would maintain a computerized database of all public officials and employees required to file SALNs, and that such task force would monitor full compliance with the law. The circular further provided that: "*The administrative/personnel division shall likewise prepare a report indicating therein the list of officials and employees who failed to submit their respective statements of assets, liabilities and net worth and disclosures of business interests and financial connections.*"


Considering that the memorandum circulars took effect prior to the commission of the violations by the petitioner, it would be unwarranted to hold that the Office of the Ombudsman could not have known of her omissions on the due dates themselves of the filing of the SALNs. What we need to stress is that the prescriptive period under Act No. 3326 was long enough for the Office of the Ombudsman and the CSC to investigate and identify the public officials and employees who did not observe the requirement for the submission or filing of the verified SALNs – information that was readily available to the public.

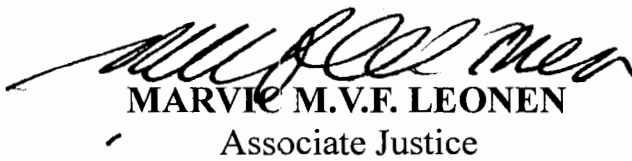
WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the decision rendered on August 16, 2011 by the Sandiganbayan; and **AFFIRMS** the decision rendered on October 6, 2010 by the Regional Trial Court, Branch 32, in Manila upholding the quashal of the informations filed in Criminal Case No. 10-276311 and Criminal Case No. 10-276312.

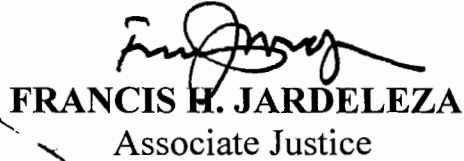
SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice

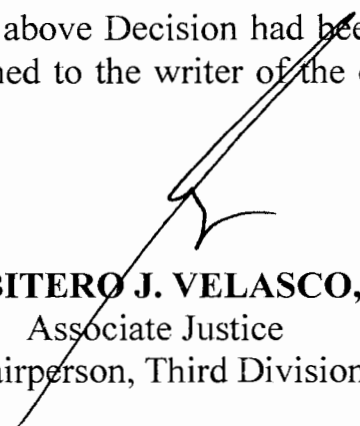

MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
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.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

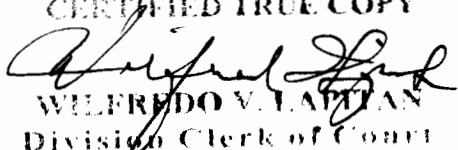
CERTIFICATION

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.



ANTONIO T. CARPIO
Acting Chief Justice

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WILFREDO V. LAPID
Division Clerk of Court
Third Division

JUL 31 2018