



The case involves two separate penalties of suspension imposed upon Sio for incidents occurring on two different dates.

The first subject incident occurred on April 29, 2011, at around 11:00 in the evening. One of Heritage's guests, Erlinda Tiozon (Tiozon), ordered food and beverage using Heritage's Player Tracking System (PTS), a system where clients earn points while playing at the casino inside Heritage's premises, which points may be used to purchase food and beverages.<sup>6</sup> The parties dispute what happened thereafter.

According to Sio, Tiozon was unable to present her PTS card which is needed to process orders. Sio sought the advice of Jeffrey Bumatay (Bumatay), the slot machine host in the casino, and asked for his approval. The latter, however, refused to act on the request without the PTS card. Sio relayed the matter to Tiozon, who became furious. To avoid confrontation, Sio went back to Bumatay and explained the situation. It was then that Bumatay allowed the transaction and processed the orders of Tiozon.<sup>7</sup>

On the other hand, Heritage avers that Tiozon was a VIP guest of Philippine Amusement and Gaming Corporation (PAGCOR), one of Heritage's biggest clients which draws several guests for Heritage because of the latter's casino operations inside the hotel. After an investigation, Heritage discovered that Tiozon requested Sio to get her PTS Card at the slot machines area so that the former could order food and beverage. Instead of answering Tiozon politely, Sio arrogantly and sarcastically said, "*[D]i ako pwede kumuha ng PTS card sa slot machine basement area.*" The impolite response irked Tiozon. Realizing that Tiozon was already upset, Sio then took Tiozon's order and went to get her PTS card. She, thereafter, proceeded to Bumatay to obtain the latter's approval for the orders. Bumatay asked Sio if there were slot machine supervisors in Sio's area who could approve her orders, as per standard operating procedure. But the latter sarcastically answered, "*[P]upunta pa ba ako dito sa SM main area kung mayroong supervisor doon sa HBC?!*"<sup>8</sup>

After Tiozon complained of her encounter with Sio to Bumatay and because of his own experience, Bumatay submitted to Heritage a written report/complaint dated April 30, 2011.<sup>9</sup> On May 2, 2011, Heritage issued a memorandum requiring Sio to submit her written explanation on the following violations of Heritage's Code of Conduct:

Major Offense #09

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<sup>6</sup> Id. at 328.

<sup>7</sup> Id. at 328-329.

<sup>8</sup> Id. at 11-15.

<sup>9</sup> Id. at 11-13.



✓ Show of discourtesy, disrespect or use offensive, obscene, or insulting language or arrogance either by acts or words towards Hotel guests, clients, suppliers, superiors or fellow employees.

Major offense #10

Creating or contributing to disturbance, or engaging in scandalous behavior, inside Hotel premises or committing any act which in any manner disturbs the peace and order within the company premises whether on or off duty.

Major Offense #11

• Engaging another person into a (*sic*) heated or near violent arguments or discussions. This includes use of obscene, grave, profane and humiliating language against another person.<sup>10</sup>

On May 13, 2011, Sio submitted her written explanation<sup>11</sup> denying Bumatay's narration in his report/complaint. On May 26, 2011, an administrative hearing was conducted, wherein Bumatay and another witness who was an employee of Heritage, Jesse Barroga, affirmed the statements in the former's report.<sup>12</sup> Sio, instead of refuting the charges, apologized to Bumatay and signed the minutes of the administrative hearing.<sup>13</sup> After finding her guilty of the charges, Heritage imposed upon Sio the penalty of one-week suspension from June 7 to 14, 2011.<sup>14</sup> Sio served her suspension.

The second subject incident occurred on September 21, 2011. Another Heritage client, Mussa Mendoza (Mendoza), together with a companion, ordered a clubhouse sandwich from Sio. After some time, Mendoza's companion cancelled the order. Sio thereafter overheard Mendoza inquiring about her order, at which point Sio informed Mendoza that an unidentified female customer cancelled her orders. Sio then approached Mendoza's companion and, in a strong voice, remarked, "*Ikaw na magexplain sa kanya at baka maghanap pa siya.*" Embarrassed and offended by Sio's arrogant remark as she felt "like she was a dog looking for a food to eat,"<sup>15</sup> Mendoza lodged a complaint against Sio on September 22, 2011 with Heritage's Human Resource (HR) Department. The HR director summoned Sio to the investigation room to explain. Therein, Sio apologized to Mendoza but the same was rejected by the latter.<sup>16</sup>

On October 5, 2011, Sio was issued a second memorandum<sup>17</sup> requiring her to explain in writing why no disciplinary action should be imposed on her

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<sup>10</sup> Id. at 13-14.

<sup>11</sup> Id. at 45-46.

<sup>12</sup> Id. at 47.

<sup>13</sup> Id.

<sup>14</sup> Id. at 48.

<sup>15</sup> Id. at 49.

<sup>16</sup> Id. at 280-281.

<sup>17</sup> Id. at 50. •

for violating the same provisions of the company rules as those enumerated in the earlier May 2, 2011 memorandum and, additionally:

Major Offense #28

Issuing statements or committing acts inimical to Hotel's image, interest or reputation.<sup>18</sup>

Sio submitted her explanation dated October 7, 2011,<sup>19</sup> stating that Mendoza's allegations in her complaint were purely hearsay because Sio was not talking to Mendoza but to the latter's companion when she was quoted as saying, "*Ikaw na mag-explain sa kanya at baka maghanap pa siya.*"<sup>20</sup>

Finding no merit in her explanation, Heritage issued a memorandum and a Report, both dated October 21, 2011, finding Sio guilty of the new charges and imposing upon her the penalty of suspension for two (2) weeks, beginning October 18 to November 2, 2011, with a warning that a similar offense in the future would merit dismissal.<sup>21</sup>

Aggrieved and averring that she was likewise an active union member, Sio filed a complaint for Unfair Labor Practice (ULP), illegal suspension and other monetary claims before the arbitration branch of the National Labor Relations Commission (NLRC).

In a Decision dated April 24, 2012,<sup>22</sup> the Labor Arbiter (LA) dismissed Sio's complaint for lack of merit. According to the LA, Sio failed to refute Heritage's allegations and even apologized to her complainants during the hearings. The LA concluded that Sio's suspension was based on valid and legitimate grounds and that such act of Heritage was not tantamount to illegal suspension, being a legitimate exercise of management prerogative.

Sio appealed to the NLRC, which rendered a Decision dated July 31, 2012,<sup>23</sup> denying the appeal and affirming the LA's findings. According to the NLRC, Sio failed to disprove Heritage's charges, thus, making the suspensions based on said charges legal. Additionally, the NLRC ruled that as the suspensions were legal, the charge of ULP must perforce fail. Sio filed a Motion for Reconsideration (MR) which was, however, denied in a Resolution dated September 18, 2012. Hence, Sio filed a Petition for *Certiorari* under Rule 65 of the Rules of Court with the CA.

In the Assailed Decision, the CA partially granted Sio's petition and annulled and set aside the NLRC's rulings. According to the CA, the complaining guests were not adduced by Heritage to corroborate the latter's

<sup>18</sup> Id. at 18.

<sup>19</sup> Id. at 51.

<sup>20</sup> Id.

<sup>21</sup> Id. at 53-54.

<sup>22</sup> Id. at 116-129. Penned by Labor Arbiter Daniel J. Cajilig.

<sup>23</sup> Id. at 163-173. Penned by Commissioner Nieves E. Vivar-de Castro, with the concurrence of Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Isabel G. Panganiban-Ortiguerra.



charges.<sup>24</sup> The evidence presented by Heritage, specifically the report/complaint of Bumatay and the complaint of Mendoza were hearsay evidence, thus, bereft of any evidentiary value.<sup>25</sup> Finally, Sio's alleged statements could hardly be considered arrogant and as sufficient grounds for her suspension.<sup>26</sup> In sum, the CA found that the NLRC committed grave abuse of discretion in affirming the ruling of the LA<sup>27</sup> and found Heritage guilty of illegal suspension. As such, the CA awarded Sio backwages and other benefits as well as moral and exemplary damages, thus:

**WHEREFORE**, in light of all the foregoing, the petition is **PARTIALLY GRANTED**. Accordingly, the decision dated July 31, 2012 and resolution dated September 18, 2012 of public respondent National Labor Relations Commission in NLRC LAC No. 06-001823-12 are **ANNULLED** and **SET ASIDE**.

Private respondent, The Heritage Hotel, is found liable for illegal suspension and is hereby **ORDERED** to pay petitioner Lilian S. Sio the amount of ₱50,000.00 as moral damages and ₱50,000.00 as exemplary damages. This case is thus **REMANDED** to the Labor Arbiter for the computation, within 30 days from receipt hereof, of the backwages, inclusive of allowances and other benefits due petitioner, computed from the time her compensation was withheld up to the time of her actual reinstatement, in addition to the aforesaid amounts.

SO ORDERED.<sup>28</sup>

Heritage filed an MR but the same was denied in the Assailed Resolution. Hence, the present recourse.

In assailing the findings of the CA, Heritage avers that: 1) the CA erred in disturbing the factual findings of the LA, as affirmed by the NLRC,<sup>29</sup> which findings are supported by substantial evidence;<sup>30</sup> 2) Bumatay's report is not hearsay as he himself was a complainant in the administrative case against Sio, having himself received disrespectful words from Sio; 3) Bumatay was not an employee of Heritage but that of PAGCOR, one of Heritage's biggest clients which operates a casino inside the hotel's premises. Heritage, on the other hand, offers food and beverages to the guests of PAGCOR in the latter's casino, under a contract between the two entities; 4) being a client of Heritage which draws in a significant number of guests to the hotel, it is of paramount importance to Heritage that it provides top-quality service to PAGCOR's guests and treats the latter's employees with respect;<sup>31</sup> 5) Sio was afforded every opportunity to deny all the charges against her but instead of doing so,

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<sup>24</sup> Id. at 284.

<sup>25</sup> Id. at 285.

<sup>26</sup> Id. at 284-285.

<sup>27</sup> Id. at 287.

<sup>28</sup> Id.

<sup>29</sup> Id. at 22-23.

<sup>30</sup> Id. at 25.

<sup>31</sup> Id. at 26-27.



she apologized to her complainants; 6) having proven the charges against Sio, and with Sio having failed to even deny such charges and confront her complainants during the administrative hearings, Heritage had no choice but to penalize her with suspension;<sup>32</sup> 7) pieces of evidence, other than the allegedly hearsay report/complaint, were presented by Heritage such as the minutes of the administrative hearing;<sup>33</sup> 8) the CA failed to appreciate the arrogant and offensive manner by which Sio's questioned statements were made and merely focused on their literal meaning;<sup>34</sup> and 9) as Sio's suspensions were valid, the award in her favor of backwages and other benefits as well as moral and exemplary damages was improper.<sup>35</sup>

### Issue

Whether the CA erred in ruling that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when the latter affirmed the LA's decision and found that the suspensions of Sio were valid and legal.

### Ruling

There is merit in the petition.

At the outset, the Court notes that the Petition raises mixed questions of law and fact. In a petition for review on certiorari, generally, only questions of law may be raised and questions of fact may not be inquired into.<sup>36</sup> However, as the findings of the labor tribunals, on the one hand, and the CA, on the other, are conflicting, the present case falls under jurisprudential exemptions to this general rule.<sup>37</sup> Hence, the Court may proceed to resolve the issues raised herein.

In examining the present Rule 45 Petition, the Court is mindful of the nature of the petition resolved by the CA in its assailed rulings. The CA reviewed the decision of the NLRC through a special civil action for *certiorari* under Rule 65 of the Rules of Court — the sole mode of review of NLRC

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<sup>32</sup> Id. at 29.

<sup>33</sup> Id. at 30.

<sup>34</sup> Id. at 31.

<sup>35</sup> Id. at 33-35.

<sup>36</sup> See *Naguit v. San Miguel Corporation*, 761 Phil. 184, 193 (2015).

<sup>37</sup> As enumerated in *Pascual v. Burgos*, 776 Phil. 167, 182 (2016), the exceptions are:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) [When] the findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) [When] the finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.



decisions, as the law and jurisprudence stand now.<sup>38</sup> Being so, its jurisdiction was confined to errors of jurisdiction committed by the NLRC, whose decision might only be set aside if it committed grave abuse of discretion amounting to lack or excess of jurisdiction.<sup>39</sup>

Hence, it was incumbent upon Sio, the party who sought the review of the NLRC decision, to establish that the NLRC acted capriciously and whimsically in order that the extraordinary writ of certiorari would lie. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and it must be shown that the discretion was exercised arbitrarily or despotically.<sup>40</sup>

These limitations in the CA's review powers greatly affect the scope of the Court's review in the present Rule 45 Petition. In *Montoya v. Transmed Manila Corp.*,<sup>41</sup> the Court laid down the basic approach in undertaking Rule 45 petitions of Rule 65 decisions of the CA and emphasized the need to examine the CA decision from the context of whether it correctly determined the presence or absence of grave abuse of discretion by the NLRC, as opposed to whether the NLRC decision was correct on the case's merits, thus:

x x x In a Rule 45 review, we consider the correctness of the assailed CA decision, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of questions of law raised against the assailed CA decision. **In ruling for legal correctness, we have to view the CA decision in the same context that the petition for certiorari it ruled upon was presented to it; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it.** This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. In question form, the question to ask is: **Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?**<sup>42</sup> (Emphasis supplied)

These parameters of the review powers of the courts in decisions coming from the NLRC find more meaning when seen in the context of the authority of quasi-judicial bodies and the binding effect of their rulings. These bodies, like the NLRC, have acquired expertise in the specific matters entrusted to their jurisdiction. Thus, their findings of facts are accorded not only respect but even finality if they are supported by substantial evidence.<sup>43</sup>

With these guidelines on hand, the Court is tasked to determine whether the CA correctly ruled that the NLRC committed grave abuse of discretion in

<sup>38</sup> See *St. Martin Funeral Home v. NLRC*, 356 Phil. 811-816 (1998).

<sup>39</sup> See *Philippine National Bank v. Gregorio*, G.R. No. 194944, September 18, 2017, 840 SCRA 37, 50.

<sup>40</sup> See *Leonis Navigation Co., Inc. v. Villamater*, 628 Phil. 81, 92 (2010).

<sup>41</sup> 613 Phil. 696 (2009).

<sup>42</sup> *Id.* at 707.

<sup>43</sup> *Supra* note 39 at 51-52.



affirming the findings of the LA and holding that Sio's suspensions were valid and legal. Phrased differently, the Court shall examine if the decision of the NLRC was supported by substantial evidence; and if so, must therefor be accorded not only respect but finality.

The Court rules that it was.

Sio was involved in two separate incidents which led to the questioned suspensions. Both the LA and the NLRC found that, in both occasions, Sio committed the acts which justified her suspension. For the first incident, the labor tribunals found that she arrogantly talked to the VIP client, Tiozon and the PAGCOR employee, Bumatay. For the second incident, she made utterances which embarrassed another client, Mendoza. Moreover, the labor tribunals found that Sio was afforded procedural due process. In both instances, she submitted her explanations. During the administrative hearings, she failed to refute the allegations and to present evidence to controvert them. Instead, she even apologized to the complainants.

On appeal, the CA rejected these findings because, according to it, no direct statements coming from the complaining guests were adduced by Heritage. Bumatay's report/complaint as to the first incident and Mendoza's complaint on the second incident are, according to the CA, not based on their personal knowledge, and therefore covered by the rule excluding hearsay evidence.<sup>44</sup> Per the CA, Bumatay did not personally hear the exchange between Sio and Tiozon. Moreover, Mendoza, the complainant in the second incident, was not the person to whom Sio allegedly made the utterances complained of.

The Court cannot sustain the rulings of the CA.

First, Bumatay's report/complaint and Mendoza's complaint can hardly be considered hearsay evidence. Bumatay was himself a complainant in the first administrative case against Sio. A reading of the Complaint dated April 30, 2011<sup>45</sup> shows that it actually pertains to two separate occasions which both took place on April 30, 2011: 1) the exchange between Sio and Bumatay and 2) the exchange between Sio and Tiozon. The Complaint is signed by Bumatay and attested to by Tiozon. Anent the second incident occurring on September 21, 2011, the complaint of Mendoza clearly shows that she was referring to a personal offense when she heard Sio talking about her to her (Mendoza's) companion. The complaint states: "Thereafter, FA Sio approached the said unidentified female customer then allegedly remarked, 'Ikaw na mag explain sa kanya at baka maghanap pa siya,' which prompted Ms. MENDOZA to get irk (sic) and embarrassed as she feels (sic) like she was a dog looking for food to eat."<sup>46</sup>

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<sup>44</sup> *Rollo*, pp. 284-285.

<sup>45</sup> *Id.* at 43.

<sup>46</sup> *Id.* at 49. (Underscoring ours)





Second, even assuming that the aforementioned pieces of evidence were hearsay, the CA still erred in ruling that Sio was invalidly suspended on such basis. Administrative bodies like the NLRC are not bound by the technical niceties of law and procedure and the rules obtaining in courts of law.<sup>47</sup> Rules of evidence are not strictly observed in proceedings before administrative bodies and the Court has allowed cases to be decided on the basis of position papers and other documents without necessarily resorting to technical rules of evidence as observed in the regular courts of justice.<sup>48</sup> The Labor Code itself mandates the labor tribunals to use all means reasonable to ascertain the facts of the case without regard to technicalities, in the interest of due process, thus:

ARTICLE 227. [221] *Technical Rules Not Binding and Prior Resort to Amicable Settlement.* – In any proceeding before the Commission or any of the Labor Arbiters, **the rules of evidence prevailing in courts of law or equity shall not be controlling** and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall **use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process.** (Emphasis supplied)

Further, Sio's suspensions were imposed by Heritage not solely on the basis of Bumatay's report/complaint on the first incident or Mendoza's complaint on the second incident. Rather, Sio was allowed to explain in writing, and administrative hearings were conducted to afford her an opportunity to rebut the charges against her. Other witnesses attended the hearing as shown by the **minutes of the conference meeting**<sup>49</sup> attached to the Petition. The evidence likewise shows that Sio, instead of refuting the charges, apologized to the complainants. In other words, other pieces of evidence were presented by Heritage to prove the validity of Sio's suspension.

Third, on the findings of the CA that the statements of Sio "can hardly be considered words of arrogance, nor obscene, offensive, insulting or scandalous"<sup>50</sup> and that Sio did not harm Heritage's image, interest or reputation,<sup>51</sup> the Court agrees with Heritage that the CA, in so holding, seemingly focused merely on the words spoken and their literal sense without considering the manner in which these statements were made. The gravity of the statements made must not only be gauged against the words uttered but likewise on the relations between the parties involved and the circumstances of the case. As Heritage had explained, the persons who were on the receiving end of Sio's improper expressions were valued guests and an employee of one of their largest clients — PAGCOR. The conduct of Sio did not just violate Heritage's Code of Conduct but was likewise inimical to its business relations with PAGCOR, and thus, prejudicial to the hotel's interest.

<sup>47</sup> *Samalio v. CA*, 494 Phil. 456, 464 (2005).

<sup>48</sup> See *Sevilla v. I.T. (International) Corp., et al.*, 408 Phil. 570, 580 (2001).

<sup>49</sup> *Rollo*, pp. 47.

<sup>50</sup> *Id.* at 284-285.

<sup>51</sup> *Id.* at 285.

It bears to emphasize that Sio was not dismissed. She was only suspended for a week for the first subject offense, and two (2) weeks for the second, after notice, hearing and an investigation. The Court finds that the penalties of suspension imposed upon Sio were not without valid bases and were reasonably proportionate to the infractions committed. In *Areno, Jr. v. Skycable PCC-Baguio*,<sup>52</sup> the Court found proper the suspension imposed upon an employee who made malicious statements against a co-employee. The improper remarks hurled against valued guests and an employee of a valued client, in the present case, pose a greater threat to the interest of an employer and all the more merits a similar, if not graver, penalty.

It is axiomatic that appropriate disciplinary sanction is within the purview of management imposition. What should not be overlooked is the prerogative of an employer company to prescribe reasonable rules and regulations necessary for the proper conduct of its business and to provide certain disciplinary measures in order to implement said rules to assure that the same would be complied with.<sup>53</sup> An employer has a free reign and enjoys wide latitude of discretion to regulate all aspects of employment, including the prerogative to instill discipline in its employees and to impose penalties, including dismissal, upon erring employees.<sup>54</sup>

In sum, there is substantial evidence to show that Sio was guilty of the charges against her and was afforded procedural due process. Hence, the act of Heritage of imposing upon her the penalties of suspension was a valid exercise of an employer's management prerogative

The LA and NLRC's findings were supported by substantial evidence on record. To put it differently, the NLRC did not err, much less commit grave abuse of its discretion, when it affirmed the findings of the LA that Sio was validly and legally suspended. The Court's own scrutiny of the decisions, pleadings and records of the case show no grave abuse of discretion on the part of the NLRC as its decision was based on substantial evidence and rooted in law. Perforce, the Court must grant Heritage's Petition.

**WHEREFORE**, premises considered, the petition is **GRANTED**. The assailed Decision dated November 21, 2014 and Resolution dated April 16, 2015 of the CA in CA-G.R. SP No. 127460 are **REVERSED**. The NLRC Decision dated July 31, 2012 is **REINSTATED**.

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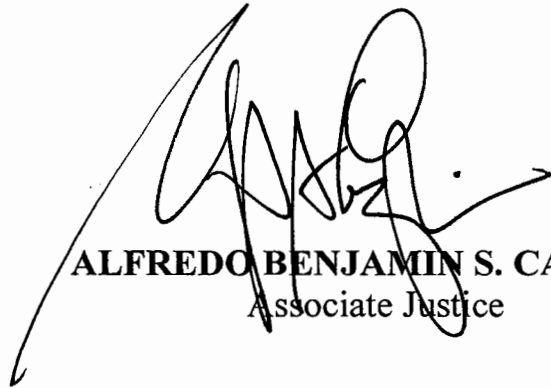
<sup>52</sup> 625 Phil. 561 (2010).

<sup>53</sup> Id. at 576-577.

<sup>54</sup> *Torreda v. Toshiba Information Equipment (Phils.), Inc.*, 544 Phil. 71, 94 (2007).

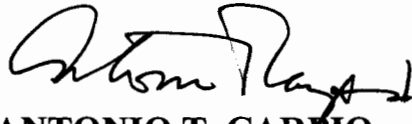


**SO ORDERED.**




**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

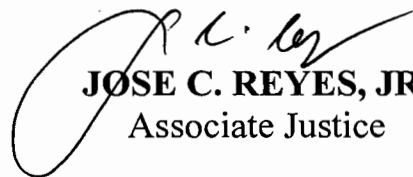
WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ESTELA M. PERLAS-BERNABE**  
Associate Justice




**JOSE C. REYES, JR.**  
Associate Justice



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

**ATTESTATION**

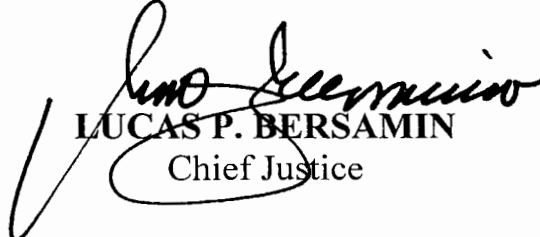
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII 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.

  
**LUCAS P. BERSAMIN**  
Chief Justice

