



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

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 222492
Plaintiff-Appellee,

Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,*
J. REYES, JR., and
LAZARO-JAVIER, JJ.

Promulgated:

[REDACTED],
Accused-Appellant.

03 JUN 2019

H.M. Cabalag Perfecto

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DECISION

LAZARO-JAVIER, J.:

The Case

This appeal¹ seeks to reverse and set aside the Decision² dated December 23, 2014 of the Court of Appeals in CA G.R. CR-HC No. 06517 which affirmed the trial court's verdict of conviction³ against appellant XXX for rape. Its dispositive portion reads:

* On Official Leave.

¹ *Rollo*, pp. 20-21; filed under Section 13(c), Rule 124 of the Rules of Court.

² *Id.* at 2-19; penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela.

³ *CA rollo*, pp. 40-46, Decision dated December 3, 2013 of the Regional Trial Court, Quezon City, Branch 107, in Criminal Case No. Q-09-160296.

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WHEREFORE, premises considered, the appeal is DENIED for lack of merit. The assailed December 3, 2013 Decision of the Regional Trial Court of Quezon City, Branch 107, in Criminal Case No. Q-09-160296 is however MODIFIED. Finding appellant XXX GUILTY of one count of QUALIFIED RAPE, he is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and to pay private complainant the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages.

Costs against the accused.

SO ORDERED.⁴

The Information

Appellant XXX was charged with rape, as follows:

The undersigned upon prior sworn complaint of AAA* assisted by her mother BBB accuses XXX of the crime of Rape, committed as follows:

That on or about the 19th day of August, 2009 in Quezon City, Philippines, the above-named accused, by means of force, and intimidation, did, then and there willfully, unlawfully, and feloniously have carnal knowledge with his daughter AAA, a minor, 13 years of age, by then and there inserting his organ on complainant's private part, all against her will and without her consent.

CONTRARY TO LAW.⁵

The case was raffled to the Regional Trial Court of Quezon City, Branch 107 and docketed as Criminal Case No. Q-09-160296.

Arraignment and Plea

On arraignment, appellant pleaded "not guilty."⁶

⁴ *Rollo*, pp. 18-19.

* Pursuant to Supreme Court Administrative Circular No. 83-2015 which mandates that the complete names of the women and children victims be replaced by fictitious initials. Also, *People v. Manjares*, G.R. No. 185844, November 23, 2011, decreed: "In line with Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC, the identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld. For purposes of discussion, the private offended party and her immediate family members shall be referred to using initials. See *People v. Cabalquinto* (G.R. No. 167693, September 19, 2006, 502 SCRA 419) and *People v. Guillermo* (G.R. No. 173787, April 23, 2007, 521 SCRA 597)."

⁵ Record, p. 1, Information dated August 25, 2009.

⁶ *Id.* at 22.

During the trial, complainant AAA, her mother BBB, and barangay tanod Ruel Beaquin testified for the prosecution. On the other hand, appellant XXX testified as lone witness for the defense.

The Prosecution's Version

Complainant AAA is the daughter of appellant XXX and BBB. She was born on December 20, 1995.⁷

In the afternoon of August 23, 2009, complainant and her mother, together with barangay tanods Roel Beaquin and Romeo Paza⁸ and an unidentified woman⁹ went to Police Station 9, Project 2, Quezon City to charge appellant with rape. Complainant executed an affidavit¹⁰ narrating in detail how her own father sexually ravished her.

On the witness stand, complainant signified her desire to seek justice for what her father did to her. She testified that the first rape incident happened in March 2007 or days before her graduation from elementary. Appellant raped her in their house at Tagkawayan, Quezon.¹¹ In 2008, he again raped her in their house in Cruz na Ligas, Quezon City.¹² The third rape incident happened on August 19, 2009, around 4:30 in the morning, also inside their house.¹³ This incident is now the subject of the present case.

Appellant's family lived in the squatters area where houses were separated only by light thin walls.¹⁴ The house where appellant's family lived measured 5x6 square meters. It was a one room affair. It served as sala, kitchen and bedroom all at the same time. The family slept in the sala. Appellant usually slept near the door; complainant, about two meters from the door; and her mother and youngest sibling, in the middle. Her older brother was not staying with them.¹⁵

At the time of the incident, complainant, her brother CCC, and appellant were sleeping in the sala. Her mother and her nine-year old sibling had already left around 3:30 in the morning.¹⁶

After their mother had left, complainant tried to wake her brother CCC to ask him to turn off the light. When CCC did not respond, she stood up and turned off the light herself. As she walked back to her sleeping area, appellant

⁷ *Id.* at 104-105.

⁸ Also referred to as BPSO Romeo Raz, *Id.* at 16

⁹ Identified as BPSO Cherry Ann Madarang, *Id.* at 16.

¹⁰ TSN, November 8, 2011, pp. 7-13.

¹¹ TSN, June 8, 2010, pp. 4-7.

¹² *Id.* at 7.

¹³ *Id.* at 8.

¹⁴ TSN, September 14, 2010, p. 16.

¹⁵ *Id.* at 2-13.

¹⁶ *Id.* at 3-8.

blocked her way with his foot. He held her hand and directed her to lie down on his “higaan.” She obeyed. She did not shout, nor stomp her feet, or knock to catch CCC's attention.¹⁷

Appellant removed her t-shirt, shorts, and underwear. She pleaded with him to stop, but he ignored her. He took off his brief, put himself on top of her, and inserted his “ari” in her “ari.” She felt intense pain. She did not see him actually insert his penis in her vagina. She tried to push herself up to evade his penetration, but it was in vain. When it was over, he instructed her to cook rice.¹⁸

The following day, she left the house to avoid appellant. She went to the workplace of her friend Carmina Morales. She confided to the latter what happened to her and told Carmina she could send appellant to jail for what he did.¹⁹

Later that day, appellant went to Carmina's place looking for complainant. When Carmina told him complainant was not there, he did not believe her and tried to box her. As a result, both Carmina and appellant went to the barangay office to file their respective complaints against each other while the victim stayed hiding in Carmina's place.²⁰

After Carmina had filed the complaint, she went back to her place and accompanied complainant to the barangay office. The barangay officials summoned complainant's mother. In front of complainant's mother, the barangay officials asked complainant why she left the house. Complainant replied her father was raping her. When complainant's mother heard this, she cried. The barangay officials immediately proceeded to appellant's workplace and arrested him. They took him to Police Station 9 where he got detained pending investigation. Meantime, complainant underwent physical and medical examination at Camp Crame.²¹ Based on the medical examination, attending Doctor PC/Insp. Dean Cabrera did on complainant, the latter sustained deep healed lacerations at 3 and 9 o'clock positions, showing blunt penetrating trauma.²²

The prosecution offered in evidence complainant's birth certificate²³ (Exhibit “A”); complaint affidavit²⁴ (Exhibit “B”); Initial Medico-Legal Report under Case No. R09-1610 dated August 23, 2005²⁵ (Exhibit “C”); sworn statement of BPSO Ruel Beaquin, BPSO Romeo Raz and Cherry Anne Madarang²⁶ (Exhibit “D”); PNP Crime Laboratory Medico-Legal Report

¹⁷ TSN, June 8, 2010, pp. 9-10; TSN, September 14, 2010, pp. 13-18.

¹⁸ TSN, June 8, 2010, pp. 10-13; TSN, September 14, 2010, pp. 18-20.

¹⁹ TSN, June 8, 2010, pp. 13-15.

²⁰ *Id.* at 15-16.

²¹ *Id.* at 16-21.

²² TSN, March 22, 2012, p. 18.

²³ Record, pp. 104-105.

²⁴ *Id.* at 106-107.

²⁵ *Id.* at 108.

²⁶ *Id.* at 109.

dated August 24, 2009²⁷ (Exhibit “E”); request for genital medical examination²⁸ (Exhibit “F”); PNP Sexual Crime Protocol²⁹ (Exhibit “G”); and manifestation of consent to medico-legal examination³⁰ (Exhibit “H”).

The Defense's Version

Appellant denied the charge. According to him, he could not bear to harm his own daughter. At the time the alleged rape happened on August 19, 2009, he was in his workplace at Mega World. He only went home around 7 o'clock in the morning. Each time he would go home from work, he would usually be very sleepy and could no longer eat his meal.³¹

The defense did not present any documentary evidence.

The Trial Court's Ruling

By Decision³² dated December 3, 2013, the trial court rendered a verdict of conviction, *viz*:

WHEREFORE, the Court finds the accused guilty beyond reasonable doubt as charge(d) in the aforementioned Information, he is hereby sentenced to suffer the penalty of reclusion perpetua. Accused is further directed to pay the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages. Costs against the accused.

The Jail Warden of Quezon City Jail is directed to commit the accused at the National Bilibid Prison, Muntinlupa City for the service of his sentence. The period of detention undergone by the accused is credited in full in the service of his sentence.

SO ORDERED.³³

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty of rape despite the victim's alleged incredulous testimony and the prosecution's purported failure to establish the element of carnal knowledge. Appellant essentially argued: (1) Complainant's testimony was hardly straightforward,

²⁷ *Id.* at 110.

²⁸ *Id.* at 111.

²⁹ *Id.* at 112.

³⁰ *Id.* at 113.

³¹ TSN, March 14, 2013, pp. 3-12.

³² CA rollo, pp. 40-46; penned by Presiding Judge Jose L. Bautista, Jr.

³³ *Id.* at 46.

much less, categorical, thus, casting doubt on the presence of the element of penile penetration; and, complainant's attitude and actions after the alleged rape were inconsistent with the usual actions of a real rape victim, hence, cannot serve to validate complainant's otherwise unreliable testimony.

On the other hand, the Office of the Solicitor General (OSG), through Assistant Solicitor General Marissa Macaraig-Guillen and State Solicitor Jillian Marie B. Co maintained that the prosecution was able to prove with moral certainty that appellant had carnal knowledge of complainant against her will. Her consistent and positive identification of appellant as the man who raped her prevails over appellant's self-serving denial and alibi.

The Court of Appeals' Ruling

In its assailed Decision³⁴ dated December 23, 2014, the Court of Appeals affirmed, with modification. It found appellant guilty of qualified rape in view of the presence of the qualifying circumstances of minority and relationship. It affirmed the penalty of *reclusion perpetua* but imposed the proviso "without eligibility for parole."

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution³⁵ dated March 9, 2016, appellant and the People both manifested³⁶ that, in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.

Issue

Did the Court of Appeals err in convicting appellant of qualified rape?

Ruling

Rape is defined and penalized under article 266-A, paragraph 1 of the Revised Penal Code (RPC), as amended by Republic Act (RA) No. 8353, viz:

Art. 266-A. Rape: When and How Committed. – Rape is committed --

³⁴ *Rollo*, pp. 2-19.

³⁵ *Id.* at 25-26.

³⁶ *Id.* at 33-35, 27-28.

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1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious,

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
(Emphasis supplied)

Rape requires the following elements: (1) the offender had carnal knowledge of a woman; and (2) the offender accomplished such act through force or intimidation, or when the victim was deprived of reason or otherwise unconscious, or when she was under twelve years of age or was demented.

Here, the prosecution had established beyond moral certainty the element of carnal knowledge. Complainant positively identified appellant, her own flesh and blood, as the man who had carnal knowledge of her against her will. She vividly described how he did it, *viz*:

ACP PAGDILAO: (To the witness)

x x x x

Q. Who raped you?

A- XXX, ma'am.

Q. Your father?

A- Yes, ma'am.

Q. How old are you, AAA?

A- 14 years old, ma'am.

Q. What is your birthdate?

A- December 20, 1995 ma'am.

x x x x

Q. And the last, where (did it) happen?

A- In our house in Village C, ma'am.

Q. Where is that Village C?

A- In our present residence ma'am.

Q. Do you recall when exactly did that happen?

A- August 19, 2009 ma'am.

Q. What time did it happen, AAA?

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- A- 4:30 in the morning, ma'am.
- Q. And where were you at that time?
- A- In our house, ma'am.
- Q. And what were you doing then?
- A- I was still lying down sleeping ma'am.
- Q. In what part of the house were you sleeping?
- A- At the sala ma'am.
- Q. By the way, how many bedrooms are there in your house?
- A- Our house has no rooms and we would sleep altogether in the sala ma'am.
- Q. And when you said that you were at that time sleeping in the sala, where was the accused?
- A- He was also there at the farthest area also sleeping ma'am.
- Q. And aside from the accused who else were sleeping with you at the sala?
- A- My other sibling, second to the youngest ma'am.
- Q. What is the name?
- A- CCC ma'am.
- Q. How old is CCC?
- A- 10 years old ma'am.


x x x x

- Q. Now, you said that you were raped and this was the last time, will you please narrate to us how it did happen?
- A- When my mother left, I was waking up my other sibling to turn off the light.

x x x x

- Q. And what happened next?
- A- I was the one who turned off the light instead ma'am.
- Q. And then after you turned off the light, what happened next?
- A- When I returned to my sleeping area he blocked my way with his foot ma'am.
- Q. And then what happened when he blocked your way with his foot?
- A- And then he held me in my hand ma'am. And he made me to go to his sleeping area.
- Q. And then what happened next?
- A- And then he made me (lie) down to his 'higaan'.
- Q. Then what did he do after that?
- A- He undressed me ma'am.

x x x x



- Q. And then what happened?
A- He also removed my shorts, ma'am.
Q. What were you doing at that time when he is removing your shorts?
A- I was still lying down and asking him not to remove it ma'am.
Q. And did he stop when you told him to stop?
A- He still continued ma'am.

x x x x

- Q. After removing your underwear, what did he do?
A- He placed himself on top of me ma'am.

x x x x

- Q. And what did he do with his briefs?
A- He also removed it ma'am.
Q. And then when he removed his briefs what did he do?
A- After placing himself on top of me, he was already raping me ma'am.
Q. When you said Miss Witness, that after removing his brief he placed himself on top of you and raped you, what do you mean?
A- 'Inilalagay po niya iyong ari niya sa ari ko', ma'am.
Q. When you said that 'Inilalagay iyong ari niya sa ari (ko)', what exactly did you feel at that time?
A- It was very painful. I was trying to push myself up for him not (to) be able to penetrate.
Q. But were you able to stand up?
A- No ma'am, I was lying down.³⁷

x x x x

ATTY. LAGASCA

- Q. And you do not know, you can not distinguish the feel or the touch of what was inserted to your vagina was a penis or a finger?
A- It was his penis, ma'am."³⁸

Complainant made a clear, candid and positive narration of how her father blocked her with his foot when she was about to go back to sleep, held her, and made her lie down on his sleeping area, undressed her, and inserted his penis in her vagina. The thirteen-year-old complainant could not have merely concocted these ugly details had she not actually experienced them in the hands of her own father. *People vs. Balcueva*³⁹ is in point:

³⁷ TSN, June 8, 2010, pp. 4-13.

³⁸ TSN, September 14, 2010, p. 20.

³⁹ G.R.No. 214466, July 01, 2015, 761 SCRA 489, 495.

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x x x Verily, a young girl would not concoct a sordid tale of a crime as serious as rape at the hands of her very own father, allow the examination of her private part, and subject herself to the stigma and embarrassment of a public trial, if her motive was other than a fervent desire to seek justice. Hence, there is no plausible reason why AAA would testify against her own father, imputing to him the grave crime of rape, if this crime did not happen.

Besides, no child would charge the father she naturally revered and respected with such heinous crime as rape had it not been true. In *People v. Mangitngit*,⁴⁰ the Court ordained:

We reiterate that a rape victim's testimony against her parent is entitled to great weight since Filipino children have a natural reverence and respect for their elders. These values are so deeply ingrained in Filipino families and it is unthinkable for a daughter, or daughters in this case, to brazenly concoct a story of rape against their/her father, if such were not true.

As it was, the trial court found complainant's testimony spontaneous and straightforward. The Court respects the trial court's factual findings on complainant's credibility.⁴¹ More so because these factual findings carry the full concurrence of the Court of Appeals.

Appellant, nonetheless, harps on the prosecution's alleged failure to prove penile penetration as an element of carnal knowledge. He zeroes in on complainant's testimony that she did not actually see him insert his penis in her vagina.

On this score, We reckon with complainant's graphic account "*Inilalagay po niya iyong ari niya sa ari ko, ma'am.*"⁴² x x x "*It was his penis, ma'am.*"⁴³ x x x "*It was very painful.*"⁴⁴ If this is not penile penetration, what is?

While appellant's conviction was primarily based on complainant's testimony, the same solidly conforms with the physical evidence through the medical findings of Dr. Dean Cabrera that complainant sustained hymenal lacerations at 3 and 9 o'clock positions showing blunt penetrating trauma. The Court has consistently ruled that when a rape victim's straightforward and truthful testimony conforms with the medical findings of the examining doctor, the same is sufficient to support a conviction for rape.⁴⁵ So must it be.

Appellant further asserts that complainant's failure to shout for help negates the claim that she got raped. But as held in many cases, the victim's

⁴⁰ G.R.No. 171270, September 20, 2006, 502 SCRA 560, 574.

⁴¹ *People v. Hirang*, G.R.No. 223528, January 11, 2017, 814 SCRA 315, 330.

⁴² TSN, June 8, 2010, p. 12.

⁴³ TSN, September 14, 2010, pp. 19-20.

⁴⁴ TSN, June 8, 2010, p. 13.

⁴⁵ *People v. Caoili*, G.R.No. 196342, August 08, 2017, 835 SCRA 107, 139; *People v. Sumingwa*, 618 Phil. 650, 665 (2009).

failure to shout for help does not disprove rape. Even the victim's lack of resistance, especially when the sexual predator is her own father, does not signify consent⁴⁶. For in rape cases committed by a close kin, especially by the victim's father himself, the use of actual force or intimidation is unnecessary; moral influence or ascendancy takes the place of violence or intimidation.⁴⁷ *People v. Dominguez, Jr.*⁴⁸ ordained:

We find completely understandable AAA's silence and apparent assent to the sexual abuses of her father for a period of time. No standard form of behavior can be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult. **More importantly, in incestuous rape cases, the father's abuse of the moral ascendancy and influence over his daughter can subjugate the latter's will thereby forcing her to do whatever he wants. Otherwise stated, the moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires.** x x x (*Emphasis supplied*)

Notably, although complainant was not able to repel the sexual acts of her father, thereafter, she immediately left the house and reported it first to her friend Carmina, and later to the barangay officials. She also promptly submitted herself to physical examination. Her swift and courageous actions against her own father are eloquent proofs that she was truly wronged and she wanted the wrongdoer to be punished accordingly.

At any rate, appellant's defenses boil down to denial and alibi. These are the weakest of all defenses - - - easy to contrive but difficult to disprove. As between complainant's credible and positive identification of appellant as the person who had carnal knowledge of her against her will, on one hand, and appellant's bare denial and alibi, on the other, the former indubitably prevails.⁴⁹

Article 266-B of the Revised Penal Code, as amended by Republic Act 8353,⁵⁰ provides:

Article 266-B. Penalty. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

x x x

x x x

x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent,

⁴⁶ *People v. Arcillo*, 790 Phil. 153, 160 (2016).

⁴⁷ *People v. Caoili*, G.R.No. 196342, August 8, 2011, 835 SCRA 107, 140.

⁴⁸ 650 Phil. 492, 518-519 (2010).

⁴⁹ *Etino v. People*, G.R. No. 206632, February 14, 2018; *People v. Candellada*, 713 Phil. 623, 637 (2013).

⁵⁰ The Anti-Rape Law of 1997.

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guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x

x x x

x x x

Here, the Information properly alleged that complainant was only thirteen years old at the time of rape and the offender was her own father, herein appellant. Complainant's minority and her relationship with appellant were sufficiently proved by complainant's birth certificate⁵¹ on record. The death penalty would have been imposed on appellant were it not for the enactment of RA 9346⁵² prohibiting the imposition of death penalty in the country.

Consequently, the Court of Appeals correctly sentenced appellant to *reclusion perpetua* without eligibility for parole in accordance with Section 3 of RA 9346, viz:

SEC 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

Finally, pursuant to prevailing jurisprudence,⁵³ the awards of civil indemnity and moral and exemplary damages here should be increased to P100,000.00 each.

ACCORDINGLY, the appeal is **DENIED**. The Decision dated December 23, 2014 of the Court of Appeals is **AFFIRMED WITH MODIFICATION**.

Appellant is found guilty of rape, qualified by minority and relationship. He is sentenced to *reclusion perpetua*, without eligibility for parole. He is further ordered to pay P100,000.00 as civil indemnity; P100,000.00 as moral damages; and P100,000.00 as exemplary damages. All monetary awards are

⁵¹ Record, pp. 104-105.

⁵² An Act Prohibiting the Imposition of Death Penalty in the Philippines.

⁵³ *People v. Jugueta*, 783 Phil. 806, 848 (2016).

"II. For Simple Rape/Qualified Rape:

1.1 Where the penalty imposed is Death but reduced to *reclusion perpetua* because of RA 9346:

a. Civil indemnity -- P100,000.00
b. Moral damages -- P100,000.00
c. Exemplary damages -- P100,000.00"


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subject to six percent (6%) interest *per annum* from finality of this decision until fully paid.

SO ORDERED.

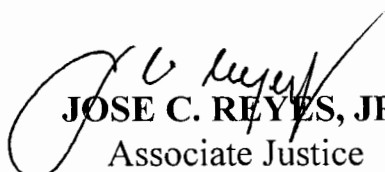

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

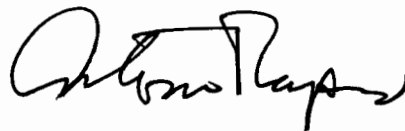

ESTELA M. PERLAS-BERNABE
Associate Justice

(On Official Leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
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



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above 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.



LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY



MARIA LOURDES C. PERFECTO
Division Clerk of Court
Second Division

