



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

SECOND DIVISION

PEOPLE OF THE G.R. No. 227997  
PHILIPPINES, Plaintiff-Appellee, Present:

- versus -

CARPIO, J., Chairperson,  
CAGUIOA,  
REYES, J. JR.,  
LAZARO-JAVIER, and  
ZALAMEDA, JJ.

NOELLITO\* DELA CRUZ y  
DEPLOMO, Accused-Appellant.

Promulgated:

16 OCT 2019

X ----- *M. Cabalag* ----- X

DECISION

ZALAMEDA, R.V., J.:

The mere suddenness of an attack does not necessarily equate to treachery. The accused must have knowingly, deliberately, and consciously adopted the means or method to ensure the execution of his criminal purpose without risk to himself arising from the defense which the victim might offer, for the same to be appreciated as a qualifying circumstance.

The Case

This appeal seeks the reversal of the Decision dated 12 November 2015<sup>1</sup> of the Court of Appeals in CA-G.R. CR-HC No. 06689, which

\* Also spelled as "Noelito" in some parts of the Rollo.

<sup>1</sup> Rollo, pp. 2-19; Penned by Associate Justice Sesinando E. Villon, and concurred in by Associate Justice Nina G. Antonio-Valenzuela and Associate Justice Pedro B. Corales.

affirmed with modification the Decision dated 30 July 2013<sup>2</sup> of Branch 150, Regional Trial Court (RTC), Makati City, finding accused-appellant, Noellito Dela Cruz y Deplomo, guilty of the murder of Ramir Joseph Eugenio (Ramir).

### Antecedents

In an Information dated 11 November 2009,<sup>3</sup> accused-appellant was charged with the crime of murder under Article 248 of the Revised Penal Code (RPC), as amended by Section 6 of Republic Act No. 7659. The accusatory portion of the Information reads as follows:

On the 9<sup>th</sup> day of November 2009, in the city of Makati, the Philippines, the accused, with intent to kill and by means of treachery, did then and there willfully, unlawfully and feloniously stab one Ramir Joseph Eugenio, with a “knife” thereby inflicting serious and mortal wounds upon said Ramir Joseph Eugenio, which directly caused his death.

CONTRARY TO LAW.<sup>4</sup>

During his arraignment on 01 December 2009, accused-appellant entered a plea of “not guilty.” Trial on the merits ensued after the pre-trial conference.<sup>5</sup>

### *Version of the Prosecution*

The facts, as culled from the testimony of the prosecution witnesses, are as follows:

Ramir, accused-appellant, and witness Ronald Herreras (Ronald), along with several others, lived on different floors of a three-storey house. On 09 November 2009, while Ronald was working at a nearby vulcanizing shop, he heard that his uncle, herein accused-appellant, and Ramir were engaged in a fistfight inside the latter's room. Ronald rushed to the scene and found accused-appellant and Ramir blocking the door. As he tried to open the door, Ronald saw Ramir lying in a pool of blood, with accused-appellant holding a knife embedded on Ramir's forehead.

<sup>2</sup> *CA Rollo*, pp. 25-34.

<sup>3</sup> *Id.* at 15.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 25.

Petrified by the scene, Ronald closed the door and sought help from the other occupants of the house but to no avail. This prompted Ronald to go back to Ramir's room where he wrestled the knife from his uncle. Afterwards, he went to the ground floor of the house, threw the knife underneath the washing machine, and ran outside to seek help. Ramir was brought to the hospital but was declared dead on arrival. Upon questioning, Ronald told the investigating policeman that he hid the knife used to stab Ramir. When he returned to the house, Ronald retrieved the knife and surrendered it to PO3 Julius Guerrero.<sup>6</sup>

Vilma Foronda (Vilma) corroborated Ronald's testimony in its material points. According to her, she lived in one (1) of the rooms in the house she shared with accused-appellant and the victim. On 09 November 2009, while she was cooking in her room with the door open, Vilma saw accused-appellant knock on Ramir's door. Ramir opened his door, saw accused-appellant, and cursed at him. Suddenly, accused-appellant took a knife from his pocket and stabbed Ramir who then retreated to his room. Out of fear, Vilma closed the windows, locked her door and shouted for help. She heard loud, banging noises coming from Ramir's room, with Ronald shouting, "*Tito Noel tama na po!*" Taking a peep through her door, she saw accused-appellant emerge from Ramir's room as if nothing happened. When she finally opened her door, Vilma saw people carrying Ramir's body out of the room.<sup>7</sup>

For his part, Dr. Roberto Rey San Diego (Dr. San Diego) recalled that he conducted an autopsy on the victim. Based on his examination, Dr. San Diego found Ramir to have sustained incised wounds on the forehead,<sup>8</sup> as well as stab wounds and contusions on his body. Anent the stab wounds, two (2) of these were considered fatal and another two (2) were classified as defense wounds.<sup>9</sup>

### *Version of the Defense*

Denying the allegations against him, accused-appellant attested that on 09 November 2009 at around 11:00 a.m., he was sleeping inside his room when he was awakened by a policeman and a certain Philip, who pointed to him as the one who killed Ramir. He further testified that prior to the said date, he did not have any kind of misunderstanding with Ramir. He also denied owning the knife which was used in the killing. In his view, the

<sup>6</sup> TSN dated 02 March 2010, pp.7-20; *Rollo*, pp. 3-5.

<sup>7</sup> TSN dated 01 June 2010, pp. 4-14; *Rollo*, pp. 5-6.

<sup>8</sup> *Records*, page 113.

<sup>9</sup> TSN dated 21 September 2010, pp. 6-12; *Rollo*, pp. 6-7.

witnesses who testified against him were upset for his refusal to extend financial assistance to them.<sup>10</sup>

### Ruling of the RTC

The RTC convicted accused-appellant of the crime charged through a Decision dated 30 July 2013, the *fallo* of which reads:

WHEREFORE, premises considered, the court finds accused Noellito dela Cruz Guilty beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code as amended by Republic Act No. 7659 qualified by treachery and hereby sentences him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law. The accused is likewise ordered to pay the legal heirs of victim Ramir Joseph Eugenio the amounts of Php75,000.00 as civil indemnity, Php41,500.00 as actual damages and Php50,000.00 as moral damages all with interest at the legal rate of 6% per annum from this date until fully paid.

SO ORDERED.<sup>11</sup>

As held by the trial court, accused-appellant's denial cannot prevail over the testimonies of Ronald and Vilma, who positively identified him as the person who stabbed Ramir. Moreover, the RTC ruled that accused-appellant failed to substantiate his defense of insanity.<sup>12</sup>

### Ruling of the Court of Appeals

On 12 November 2015, the Court of Appeals rendered the assailed decision affirming the conviction of accused-appellant, to wit:

WHEREFORE, in view of the foregoing, the appeal is **DENIED**. The Decision dated July 30, 2013 of the Regional Trial Court of Makati City, Branch 150, finding accused-appellant Noellito Dela Cruz y Deplomo guilty beyond reasonable doubt of the crime of MURDER, is hereby **AFFIRMED** with the **MODIFICATION** in that in addition to the monetary awards awarded by the court *a quo*, appellant is hereby further ordered to pay the heirs of Ramir Joseph Eugenio the amount of Ten Thousand Pesos (P10,000.00) by way of exemplary damages. Interest at

<sup>10</sup> TSN dated 21 June 2011, pp. 4-10; *Rollo*, pp. 7-8.

<sup>11</sup> *CA Rollo*, p. 34.

<sup>12</sup> *Id.* at 31.

the legal rate of six percent (6%) per annum, shall be imposed on the total monetary awards in the appealed decision until the same are fully paid.

**SO ORDERED.**<sup>13</sup>

The appellate court ruled that all the elements of murder had been properly alleged and proven by the prosecution. It found the testimonies of the prosecution witnesses to be sincere and straightforward thereby worthy of credence. In contrast, accused-appellant's denial and alibi were not substantiated by any clear and convincing evidence, and therefore, considered self-serving.<sup>14</sup>

**Issues**

For purposes of this appeal, the Office of the Solicitor General (OSG)<sup>15</sup> and the Public Attorney's Office (PAO)<sup>16</sup> manifested they were no longer filing their respective supplemental briefs, and prayed the briefs submitted to the Court of Appeals be considered in resolving the appeal.

In his brief, accused-appellant claims the prosecution witnesses gave conflicting testimonies leading to an inconsistent story as to how the crime transpired. Without conceding he committed the crime, accused-appellant also argues he was deprived of reason during its commission due to his diagnosed schizophrenia.<sup>17</sup>

In response, the OSG maintains all the elements of the crime of murder had been substantially proven by the prosecution. Furthermore, accused-appellant's defense of alibi cannot overcome the direct and positive testimony of Ronald and Vilma. The OSG also argues accused-appellant failed to substantiate with clear and convincing proof his claim of insanity.<sup>18</sup>

With these contentions, the Court is tasked to determine whether the Court of Appeals erred in affirming accused-appellant's conviction for murder.

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<sup>13</sup> *Rollo*, p. 18.

<sup>14</sup> *Id.* at 10-18.

<sup>15</sup> *Id.* at 37-39.

<sup>16</sup> *Id.* at 41-43.

<sup>17</sup> *CA Rollo*, pp. 67-80.

<sup>18</sup> *Id.* at 119-124.



### Ruling of the Court

The appeal is partly meritorious.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>19</sup>

In this case, there is no doubt that accused-appellant is liable for the death of the victim. The Court, however, rules that based on a thorough review of the records, the applicable law, and jurisprudence, accused-appellant may only be convicted for homicide, and not murder.

***The qualifying circumstance of treachery or alevosia was not proven beyond reasonable doubt***

It is established that qualifying circumstances must be proved with the same quantum of evidence as the crime itself, that is, beyond reasonable doubt.<sup>20</sup> The qualifying circumstance of treachery or *alevosia* is present when the offender, in the execution of the crime against a person, employs means, methods or forms, which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.<sup>21</sup> The essence of treachery is the sudden attack by the aggressor without the slightest provocation on the part of the unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring the commission of the crime without risk to the aggressor arising from the defense which the offended party might make. To be appreciated, the following elements must be present:

1. At the time of attack, the victim was not in a position to defend himself or to retaliate or escape; and
2. The accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.<sup>22</sup>

<sup>19</sup> *Ramos, et al. v. People*, 803 Phil. 775, 783 (2017).

<sup>20</sup> *People v. Magbuhos y Diola*, G.R. No. 227865, 07 November 2018.

<sup>21</sup> Art. 14, The Revised Penal Code.

<sup>22</sup> *People v. Ampo*, G.R. No. 229938, 27 February 2019.



Contrary to the findings of the trial and appellate courts, We hold that the second condition was not proven with clear and convincing evidence. The prosecution failed to establish that accused-appellant purposely adopted the means, method or form of attack to deprive the victim of a chance to either fight or retreat,<sup>23</sup> or to ensure the execution of his criminal purpose without any risk to himself arising from the defense that the victim might offer,<sup>24</sup> without the slightest provocation on the latter's part.<sup>25</sup>

While the victim may have been unarmed and was stabbed at the doorstep of his room, there was nary any evidence to show that the attack was preconceived and deliberately adopted without risk to accused-appellant. To be sure, the attack was committed in broad daylight,<sup>26</sup> inside a house shared with other tenants, within the immediate view and in proximity of the witness, Vilma. Thus, all these negate that the attack was done deliberately to ensure the victim would not be able to defend himself, or to retreat, or even to seek help from others.

Even Vilma's testimony was bereft of any indication that indeed, accused-appellant deliberately made the attack:

Q: And after Noellito Dela Cruz the accused in this case knocked at the door of Ramir's room what happened next?

A: He was being opened the door by Ramir, sir (sic).

Q: And what else did you see, if any, after that?

A: When Ramir left the room, I heard what he said "PUTANG INA MO IKAW LANG PALA ISTORBO KA".

Q: After Ramir said those words what happened next?

A: After Ramir said those words I saw with my own eyes Noellito got a knife from his pocket and immediately stabbed Ramir, sir.<sup>27</sup>

When there is no evidence that the accused had, prior to the moment of the killing, resolved to commit the crime, or there is no proof that the death of the victim was the result of meditation, calculation or reflection, treachery cannot be considered.<sup>28</sup>

<sup>23</sup> See *People v. Academia, Jr.*, 366 Phil. 690, 696 (1999).

<sup>24</sup> *People v. Magbuhos y Diola*, G.R. No. 227865, 07 November 2018.

<sup>25</sup> *People v. Celeste*, 401 Phil. 463, 475 (2000).

<sup>26</sup> *Rollo*, page 4.

<sup>27</sup> TSN dated 01 June 2010, pp. 9-10.

<sup>28</sup> *People v. Francisco y Villagracia*, G.R. No. 216728, 04 June 2018.

Further, for treachery to be appreciated there must not be even the slightest provocation on the part of the victim.<sup>29</sup> However, from the prosecution's own version of the events, the victim loudly cursed at accused-appellant for knocking on his door. As such, the victim had an inkling that accused-appellant may resort to retaliatory measures. Hence, the stabbing may have been triggered by the provocative actuations of the victim; an act made on impulse or as a reaction to an actual or imagined provocation.<sup>30</sup>

In the absence of clear and convincing evidence to prove the qualifying circumstance of treachery, accused-appellant should be held liable for the crime of homicide, and not murder.

***Denial and alibi cannot prevail  
over the positive identification  
of eye witnesses***

Alibi, as a defense, is unavailing in this case where accused-appellant lived in the same house and was only one (1) floor away from the room of the victim. Verily, accused-appellant's account of being asleep at the time of the incident does not show it was physically impossible for him to commit the crime.

Accused-appellant also brings to our attention that Dr. San Diego's testimony disputes that of Ronald's. For while the latter stated that Ramir was stabbed in the head, Dr. San Diego allegedly made no mention that the wounds of the victim were found therein.<sup>31</sup> However, a closer scrutiny of the medico legal report<sup>32</sup> reveals the victim sustained three (3) incised wounds on his forehead. Hence, Ronald's testimony was actually corroborated by the autopsy and testimony by Dr. San Diego.

***Proof of the accused's insanity  
must relate to the time  
immediately preceding or  
simultaneous with the  
commission of the offense***

Undaunted, accused-appellant claims he was suffering from schizophrenia at the time of the commission of the crime in a final attempt to

<sup>29</sup> *People v. Dano*, 394 Phil. 1, 20 (2000).

<sup>30</sup> *Id.*

<sup>31</sup> *CA Rollo*, p. 68.

<sup>32</sup> *Records*, p. 113.



avoid criminal liability. According to Dr. Jose Loveria (Loveria), he diagnosed accused-appellant in August 2006 to be suffering from a mental illness under the classification of schizophrenia, paranoid type.<sup>33</sup> He further testified accused-appellant was his out-patient from August 2006 until 13 June 2009, but the latter subsequently failed to return for treatment and medication.<sup>34</sup> This allegedly caused accused-appellant to suffer from delusions triggering his attack on the victim.<sup>35</sup>

In *People v. Madarang*,<sup>36</sup> the Court explained how insanity is successfully invoked as a circumstance to evade criminal liability, to wit:

In the Philippines, the courts have established a *more stringent criterion* for insanity to be exempting as it is required that there must be a *complete deprivation of intelligence* in committing the act, *i.e.*, the accused is *deprived of reason*; he acted *without the least discernment* because there is a *complete absence of the power to discern*, or that there is a *total deprivation of the will*. *Mere abnormality of the mental faculties will not exclude imputability.*

The issue of insanity is a question of fact for insanity is a condition of the mind, not susceptible of the usual means of proof. As no man can know what is going on in the mind of another, the state or condition of a person's mind can only be measured and judged by his behavior. Establishing the insanity of an accused requires opinion testimony which may be given by a witness who is intimately acquainted with the accused, by a witness who has rational basis to conclude that the accused was insane based on the witness' own perception of the accused, or by a witness who is qualified as an expert, such as a psychiatrist. *The testimony or proof of the accused's insanity must relate to the time preceding or coetaneous with the commission of the offense with which he is charged.*<sup>37</sup>

Hence, in order for the accused to be exempted from criminal liability under a plea of insanity, he must successfully show that: (1) he was **completely deprived of intelligence**; and (2) such complete deprivation of intelligence must be manifest **at the time or immediately before the commission of the offense**.<sup>38</sup>

The records of the case reveal that the defense failed to prove its plea of insanity under the requirements set by law. Although accused-appellant underwent out-patient consultation for his diagnosed condition of schizophrenia from August 2006 until 13 June 2009, this evidence of insanity may be accorded weight only if there is also **proof of abnormal**

<sup>33</sup> TSN dated 08 November 2011, p. 7.

<sup>34</sup> *Id.* at 7, 11-12.

<sup>35</sup> *Id.* at 13.

<sup>36</sup> 387 Phil. 846, 859 (2000).

<sup>37</sup> *Id.*

<sup>38</sup> *People v. Bacolot*, G.R. No. 233193, 10 October 2018.

**psychological behavior immediately before or simultaneous with the commission of the crime.** The evidence on the alleged insanity must refer to the time preceding the act under prosecution or to the very moment of execution.<sup>39</sup>

The value of proving insanity at the time of or immediately before the commission of the offense is underscored in the testimony of the defense witness, Dr. Loveria, who admitted that a schizophrenic person may have non-delusional moments, to wit:

Q: As far as the accused in this case is concerned, you did not see the patient immediately before November 9, 2009, right?

A: That is right, sir.

Q: So sir you are not sure on the mental condition of the accused at the time the incident subject matter of this case happened, right?

A: That is right, sir.

Q: You are not sure sir if the accused at the time he committed the act or the crime subject matter of this case he was susceptible of comprehending what is right and what is wrong?

A: Yes, sir.

Q: **Because a schizophrenic person can have a partial comprehension of what is right and what is wrong, right?**

A: **Yes, sir.**

Q: **There were conditions when a patient is not absolutely delusional, right?**

A: **Yes, sir.**

x x x x

Q: So, a schizophrenic person can perform an act with the full knowledge that what he committed is right or wrong, right?

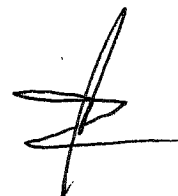
A: Under medication, sir.

Q: But even if there is no medication or there were previous medications or there were lulls or in the application of medicine there will be (sic) time a schizophrenic person is not totally delusional?

A: I don't know about that, sir.

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<sup>39</sup> *Id.*



X X X X

Q: **So, as far as the accused in this case is concerned, you did not examine him for the effect of not taking medication the prescribed medication (sic) for a certain period of time, is that correct sir?**

A: **Yes, sir.**

Q: **So you are not in a position to tell this Honorable Court as to the exact mental condition of the accused immediately before, during, and after November 9, 2009, am I correct sir?**

A: **That is why I did not say that I am absolutely certain. I said within reasonable certainty, sir.**

X X X X

Q: **But in your expert opinion Mr. witness sir according to you the accused was very calm at the time of the arrest?**

A: **According to the Police Report, sir.**

Q: **And he did not resist the arrest?**

A: **According to the Police Report, sir.**

Q: **Is it possible that he was normal at the time of the arrest?**

A: **Yes, sir.**

X X X X

Q: **May I repeat the question for clarity. According to you sir a normal person can also react the same way the accused reacted at the time of the arrest?**

A: **Yes, sir.**

Q: **That is very clear. And he did not resist the arrest, according to you a normal person can also react the way the accused reacted at the time of the arrest?**

A: **Yes, sir.**<sup>40</sup> (Emphasis supplied)

As gleaned from his testimony, Dr. Loveria admitted that he did not assess the effect of accused-appellant's failure to take medications vis-à-vis his behavior during the crime. Moreover, the last consultation accused-appellant had with him was five (5) months before the incident. Accused-

<sup>40</sup> TSN dated 08 November 2011, pp. 17-22.



appellant's behavior immediately before, during, and after the commission of the crime were only relayed to the doctor by other witnesses. Clearly, Dr. Loveria did not have a well-defined basis to reach the conclusion that accused-appellant was insane at the time of the commission of the crime.

***Proper penalty and award of damages***

Based on the foregoing, the accused-appellant should be held liable for the crime of homicide under Article 249 of the Revised Penal Code, punishable by *reclusion temporal*. Applying the Indeterminate Sentence Law, and in the absence of any mitigating or aggravating circumstances, accused-appellant is hereby sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.

In conformity with recent jurisprudence,<sup>41</sup> accused-appellant is directed to pay the heirs of Ramir Php50,000.00 as civil indemnity, Php50,000.00 as moral damages, and Php50,000.00 as temperate damages.<sup>42</sup> All monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the date of the finality of the judgment until fully paid.

**WHEREFORE**, the Appeal is hereby **PARTIALLY GRANTED**. Accused-appellant Noellito Dela Cruz y Deplomo is declared **GUILTY** beyond reasonable doubt for the crime of **HOMICIDE**, and is sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum. Further, accused-appellant is **ORDERED** to indemnify the heirs of Ramir Joseph Eugenio the amounts of Php50,000.00 as civil indemnity, Php50,000.00 as moral damages, and Php50,000.00 as temperate damages. An interest at the rate of six percent (6%) *per annum* shall be imposed on all damages awarded from the date of the finality of this Decision until fully paid.

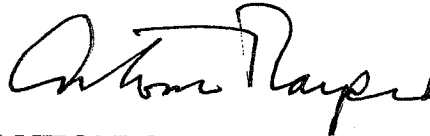
**SO ORDERED.**

  
**RODIL N. ZALAMEDA**  
*Associate Justice*

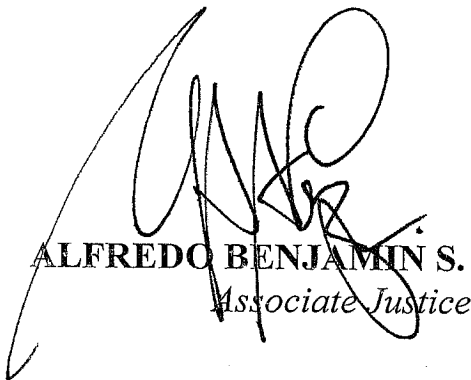
<sup>41</sup> *People v. Jugueta*, 783 Phil. 806 (2016).

<sup>42</sup> In lieu of the lesser amount of actual damages of Php 41,500.00 awarded by the trial court; *Id.*

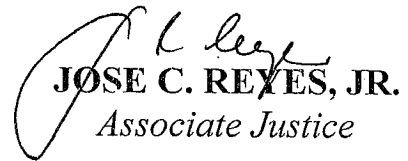
**WE CONCUR:**



**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



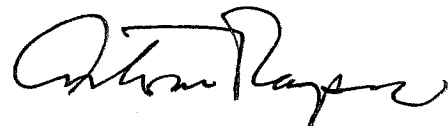
**JOSE C. REYES, JR.**  
*Associate Justice*



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

**ATTESTATION**

I attest that the conclusion 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.

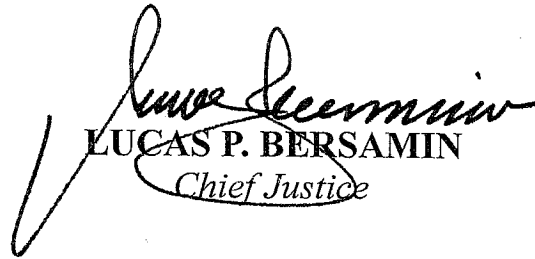


**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson*



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.

  
LUCAS P. BERSAMIN  
*Chief Justice*

