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MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division



NOV 08 2019

Republic of the Philippines
Supreme Court
Manila
THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
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PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 238457

Present:

PERALTA, J., *Chairperson,*
LEONEN,
REYES, A., JR.
HERNANDO,* and
INTING, JJ.

- versus -

JOJO BACYAAN y SABANIYA,
RONNIE FERNANDEZ y
GONZALES, and RYAN
GUEVARRA y SIPRIA,
Accused-Appellants.

Promulgated:

September 18, 2019

Mis-DC Batt

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DECISION

INTING, J.:

We reiterate the doctrine that in the assessment of the credibility of witnesses and their testimonies, the findings of the trial courts deserve utmost respect. In this case, appellants invariably interposed alibi and denial as their defenses. Needless to say, these are inherently weak defenses as they constitute self-serving, negative evidence and may easily be fabricated. These cannot be accorded greater evidentiary weight than the declaration of the prosecution witnesses who testify on affirmative matters.¹

* On leave.

¹ *People v. Gonzales*, G.R. No. 230909, June 17, 2019.

Brought to fore is an appeal from the Decision² dated January 18, 2017 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 07670 which affirmed with modification the Decision³ dated March 30, 2015 of Branch 215 of the Regional Trial Court of Quezon City (RTC), finding appellants Jojo Bacyaan y Sabaniya (Bacyaan), Ronnie Fernandez y Gonzales (Fernandez), and Ryan Guevarra y Sipria (Guevarra), guilty beyond reasonable doubt of the special complex crime of robbery with homicide as defined and penalized under Article 294, paragraph 1 of the Revised Penal Code (RPC).

Appellants were charged with the crimes of robbery with homicide and serious illegal detention under the following Informations:

Criminal Case No. Q-07-147516

That on or about the 31st day of May, 2007, in Quezon City, Philippines, the above-named accused, conspiring and confederating with three others namely; RIC MENDOZA, ERWIN MASAN y MORENA and MANUEL SAGAYAP y ARIRIO, who were killed by policemen, and mutually helping each other, all armed with unlicensed firearm and constituting themselves as armed band, with intent to gain, by means of force, violence and intimidation against person, did then and there willfully, unlawfully and feloniously rob a JMK Bus with [Plate] No. TWH-291[,] driven by LAURO SANTOS and [traveling] on its route from Baclaran to Balintawak, Caloocan City[,] in the following manner, to wit: pretending to be passengers, above-named accused boarded the public utility bus, and when it reached EDSA [en route] to Quezon City, accused brought out their hidden firearms and announced a hold-up, and, thereafter, robbed and divested the passengers of the bus of their cash money, cellphones and other personal belongings of undetermined amounts, to the damage and prejudice of said passengers, namely: MARGIE VILLATIMA y AVILA, SHIENA NEGRETE, NAOMI M. CRUZ, CECILLE P. MAMARIL, CHRISTIAN N. RUGAS, LIWILYN T. OPALALIC, JOEMAR M. PAULINO, BOBBY DAMO, SAMPAGUITA CORTUNA y TIBAYAN, ANNE MARIE P. BAMBALAN, MARIE P. BAMBALAN, MARINO BANTILAN, RICHMOND

² Rollo, pp. 2-17; penned by Associate Justice Jhosep Y. Lopez with Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba, concurring.

³ CA rollo, pp. 27-42; penned by Acting Presiding Judge Wilfredo L. Maynigo.

D. TELEBANGCO, LLOYD S. BALAGTAS, GIOVANNI CUADRO y REYES and HERMAN MENDOZA y JANDONERO;

That on the occasion or by reason of the robbery, accused[,] pursuant to their conspiracy, with intent to kill, evident premeditation, treachery[,] and abuse of superior strength, attack, assault and employ personal violence upon LAURO SANTOS, the driver of the bus, and upon RENATO JAMES VELOSO, a passenger, at Balintawak, Quezon City, by then and there shooting them with their (accused) firearms, thereby causing said LAURO SANTOS and RENATO JAMES serious and mortal wounds[,] which were the direct and immediate cause of their death. (Emphasis in the original.)

CONTRARY TO LAW.⁴

Criminal Case No. Q-07-147515

That on or about the 31st day of May, 2007, in Quezon City, Philippines, the said accused, private individuals, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully[,] and feloniously and illegally seize, drag and detain the persons of SAMPAGUITA CORTUNA y TIBAYAN and MARGIE VILLATIMA, both female, and GIOVANNI CUADRO y REYES, in a Mitsubishi Adventure with plate number CSX-806, under threats to kill them, thereby depriving them of their liberty, to the damage and prejudice of the said offended parties.

CONTRARY TO LAW.⁵ (Emphasis in the original.)

The two cases were consolidated before the RTC. On arraignment, appellants entered their respective pleas of not guilty.⁶ Trial on the merits thereafter ensued.

The facts are as follows:

⁴ CA rollo, pp. 27-29.

⁵ *Id.* at 29.

⁶ *Id.*

Giovanni Cuadro⁷ (Cuadro) testified that on May 31, 2017, he boarded the JMK bus along Ayala Avenue, Makati City. When the bus reached the EDSA-Ayala Flyover, six men, armed with guns and a grenade, declared a hold-up. He identified appellant Bacyaan as the one who announced the hold-up, while appellants Guevarra and Fernandez were the ones who divested himself and the other passengers of their personal belongings including money. Meanwhile, policemen started pursuing the bus. When the bus reached the Muñoz Market in Caloocan City, the policemen flagged it down. As the passengers tried to escape by jumping off the bus, Bacyaan shot passenger Renato James Veloso in the back which resulted in his death. Bacyaan also shot Lauro Santos, the bus driver, in the head, causing his immediate death.⁸

Thereafter, appellants grabbed a passenger to be used as a shield. They also grabbed Cuadro and two female passengers outside the bus as they looked for a vehicle to commandeer. They saw a [Mitsubishi] Adventure van with the driver inside, boarded it, pointed a gun at the driver, and ordered him to take the vehicle to the North Luzon Expressway and look for an exit route. Appellants continued to exchange gunshots with the pursuing policemen until the vehicle finally ditched into a gutter and became immobile because of blown tires, just inside the Lawang Bato exit. According to Cuadro, he escaped through a broken windshield and saw appellants commandeering a dump truck to escape.⁹

Police Officer I Engracio Baluya also testified that a concerned citizen approached him and reported that appellants had boarded a dump truck with Plate No. PDL 127. Together with his team, they pursued appellants and another exchange of gunshots ensued until the driver of the dump truck jumped out causing the vehicle to stop. Three male persons, later identified as appellants, also jumped out and surrendered. The police officers searched the dump truck and recovered a bag containing several amounts of money, cellphones, and guns.¹⁰

In their defense, appellants denied that they were participants in the robbery incident. Guevarra, in particular, averred that he was an innocent passenger of the bus and was on his way home. He was wrongfully arrested and imputed of the crime charged. Meanwhile, Fernandez claimed that at the time of the incident, he was in the

⁷ Referred to as Geovani Cuadro in some parts of the records.

⁸ *Rollo*, pp. 4-5.

⁹ *Id.* at 5.

¹⁰ *Id.*

Balintawak Market waiting for a ride on his way home to Bulacan when he heard gunshots being fired. He ran towards a street corner and dropped to the ground. After the commotion subsided, he returned to where he was previously waiting for a ride to gather his things but a policeman grabbed him and implicated him as one of the hold-uppers. Lastly, Bacyaan narrated that on the day of the incident, at around 11:00 a.m., he was selling fruits in front of the Balintawak Market when policemen in civilian clothes approached and invited him for questioning at the Valenzuela Police Station. When they reached the station, they had his picture and fingerprints taken. He was then brought to Camp Karingal, where he was detained and informed that he was a suspect in the robbery incident.¹¹

In its Decision¹² dated March 30, 2015, the trial court rendered a verdict of conviction, thus:

WHEREFORE, this Court finds the accused **Ryan Guevarra, Ronnie Fernandez and Jojo Bacyaan, GUILTY** of the crime lodged against them beyond reasonable doubt, they are hereby sentenced to suffer the following:

- 1. For the crime of Serious Illegal Detention, without mitigating but aggravated by the used (sic) of unlicensed firearm, the maximum penalty of Reclusion Perpetua.**
- 2. As to the crime of Robbery with Homicide with the used of Unlicensed Firearm, without mitigating but aggravated by the used of Unlicensed Firearm, the maximum penalty of Reclusion Perpetua.**
- 3. All the accused are further ordered to [pay] the heirs of LAURO SANTOS and RENATO JAMES VELOSO, the amount of P75,000.00 as civil indemnity, P50,836.00 as actual damages supported with credible receipts, P50,000.00 as moral damages, and P30,000 as exemplary damages[,] respectively.**
- 4. Costs against the accused.**

SO ORDERED.¹³ (Emphasis in the original)

¹¹ *Id.* at 5-6.

¹² *CA rollo*, pp. 27-42.

¹³ *Id.* at 41-42.

The RTC held that appellants' bare defenses of alibi and denial cannot be appreciated against the positive identification of appellants as well as the categorical and consistent testimonies of the prosecution witnesses.¹⁴

On appeal, the CA affirmed appellants' conviction for the crime of robbery with homicide but dismissed the criminal case for serious illegal detention. It held that the detention of the victims was only incidental to the main crime of robbery; hence, it was deemed absorbed.¹⁵

Thus, this appeal.

On June 25, 2018, the Court issued a Resolution¹⁶ requiring the parties to file their respective supplemental briefs, if they so desired, within ten days from notice. On September 7, 2018, the Office of the Solicitor General (OSG) filed its Manifestation in lieu of Supplemental Brief,¹⁷ adopting its arguments in its Appellee's Brief. On October 1, 2018, appellants also filed a Manifestation in lieu of Supplemental Brief,¹⁸ stating that they will no longer file a supplemental brief as the filing thereof would only be a repetition of the arguments raised in their Appellants' Brief.

Issues

Appellants assigned the following errors in their Brief:¹⁹

1. THE RTC ERRED IN GIVING CREDENCE TO THE TESTIMONY OF GIOVANNI CUADRO DESPITE ITS INCONSISTENCIES;
2. THE RTC ERRED IN DISREGARDING THEIR DEFENSE AND CONVICTING THEM OF THE CRIMES CHARGED; AND

¹⁴ *Id.* at 40-41.

¹⁵ *Rollo*, p. 8.

¹⁶ *Id.* at 24-25.

¹⁷ *Id.* at 26-28.

¹⁸ *Id.* at 33-35.

¹⁹ *CA rollo*, pp. 70-85.

3. THE RTC ERRED IN APPRECIATING THE ALLEGED USE OF UNLICENSED FIREARMS AS AN AGGRAVATING CIRCUMSTANCE.²⁰

The Court's Ruling

After due consideration, the Court affirms appellants' conviction for robbery with homicide but *modifies* the award of damages.

It is settled that "when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality,"²¹ unless it appears that the lower courts had overlooked, misunderstood or misappreciated some fact or circumstance of weight, which, if properly considered, would alter the result of the case.²²

Thus, we ruled in *People v. Dela Cruz*,²³ that:

x x x By and large, the instant case basically revolves around the question of credibility of witnesses. The well-entrenched rule in this jurisdiction, of course, is that the matter of assigning values to the testimonies of witnesses is best discharged by the trial court, and appellate courts will not *generally* disturb the findings of the trial court in this respect. The reason is quite simple: the trial judge is in a better position to determine the conflicting testimonies of witnesses after having heard them and observed their deportment and manner of testifying.
x x x²⁴

In this case, the Court finds no cogent reason to overturn the findings of the RTC, as affirmed by the CA, as it was not shown that the lower courts had *overlooked, misunderstood, or misappreciated* facts or circumstances of weight that could have altered the result of the case.

²⁰ *Id.* at 70.

²¹ *People v. Espino, Jr.*, 577 Phil. 546, 562 (2008).

²² *Id.*

²³ 452 Phil. 1080 (2003).

²⁴ *Id.* at 1088.

The Elements of Robbery with Homicide.

Article 294, paragraph 1 of the RPC, as amended by Republic Act No. (RA) 7659,²⁵ states:

Art. 294. *Robbery with violence against or intimidation of persons; Penalties.* – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed or when the robbery shall have been accompanied by rape or intentional mutilation or arson. x x x x

There is robbery with homicide under Article 294, paragraph 1 of the RPC when a homicide is committed by reason of or on occasion of a robbery. In order to sustain a conviction for robbery with homicide, the following elements must be proven by the prosecution: (1) the taking of personal property belonging to another; (2) with intent to gain or *animus lucrandi*; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed.²⁶

“A conviction requires certitude that the robbery is the main purpose and objective of the malefactor, and the killing is merely incidental to the robbery.”²⁷ Thus, it follows that “[t]he intent to rob must precede the taking of human life but the killing may occur before, during or after the robbery.”²⁸ Elucidating on the nature of the crime of robbery with homicide, the Court explained in *People v. Palema et al.*,²⁹ that:

In robbery with homicide, the original criminal design of the malefactor is to commit robbery, with homicide perpetrated on the occasion or by reason of the robbery. **The intent to commit robbery must**

²⁵ An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes.

²⁶ See *People v. Villamor, et al.*, G.R. No. 202705, January 13, 2016.

²⁷ *Id.*

²⁸ *Id.*

²⁹ G.R. No. 228000, July 10, 2019.

precede the taking of human life. The homicide may take place before, during or after the robbery. It is only the result obtained, without reference or distinction as to the circumstances, causes or modes or persons intervening in the commission of the crime that has to be taken into consideration. There is no such felony of robbery with homicide through reckless imprudence or simple negligence. The constitutive elements of the crime, namely, robbery and homicide, must be consummated.

It is immaterial that the death would supervene by mere accident; or that the victim of homicide is other than the victim of robbery, or that two or more persons are killed or that aside from the homicide, rape, intentional mutilation, or usurpation of authority, is committed by reason or on the occasion of the crime. Likewise immaterial is the fact that the victim of homicide is one of the robbers; the felony would still be robbery with homicide. **Once a homicide is committed by or on the occasion of the robbery, the felony committed is robbery with homicide. All the felonies committed by reason of or on the occasion of the robbery are integrated into one and indivisible felony of robbery with homicide.** The word "homicide" is used in its generic sense. Homicide, thus, includes murder, parricide, and infanticide.

Intent to rob is an internal act but may be inferred from proof of violent unlawful taking of personal property. When the fact of asportation has been established beyond reasonable doubt, conviction of the accused is justified even if the property subject of the robbery is not presented in court. After all, the property stolen may have been abandoned or thrown away and destroyed by the robber or recovered by the owner. The prosecution is not burdened to prove the actual value of the property stolen or amount stolen from the victim. Whether the robber knew the actual amount in the possession of the victim is of no moment because the motive for robbery can exist regardless of the exact amount or value involved.

When homicide is committed by reason or on the occasion of robbery, all those who took part as principals in the robbery would also be held liable as principals of the single and indivisible felony of robbery with homicide although they did not actually

take part in the killing, unless it clearly appears that they endeavored to prevent the same.

If a robber tries to prevent the commission of homicide after the commission of the robbery, he is guilty only of robbery and not of robbery with homicide. All those who conspire to commit robbery with homicide are guilty as principals of such crime, although not all profited and gained from the robbery. One who joins a criminal conspiracy adopts the criminal designs of his co-conspirators and can no longer repudiate the conspiracy once it has materialized.³⁰ (Emphasis and italics supplied.)

In the present case, there is no doubt that the above-mentioned elements are present. The candid testimony of Cuadro, one of the passengers of the bus held-up by appellants, unmistakably produces a conviction beyond reasonable doubt, viz.:

Private complainant Geovani Cuadro in his testimony vividly recalled the incident of [the] [r]obbery, and x x x the shooting by one of the accused Jojo Bacyaan of a passenger named Renato James Veloso and the driver of the bus[,] Lauro Santos[,] which caused their death. He identified all the herein accused as the persons who[,] armed with guns[,] had declared a hold-up in that morning of May 31, 2007, and thereafter [divested them of] their belongings x x x, and among [which were] his Ipod and an Oakley shades. Positive identification[,] where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter[,] prevails over a denial which if not substantiated by clear and convincing evidence is negative and self-serving evidence[,] undeserving of weight in law. They cannot be given greater evidentiary value over the testimony of credible witnesses who testify in affirmative matters. x x x³¹

From these circumstances, there is no mistaking from the actions of appellants that their main intention was to rob the passengers of the JMK bus and that on the occasion of the robbery, a homicide was committed. Accordingly, personal properties, such as cellphones and

³⁰ *People v. Palema, et al.*, supra note 30, citing *People v. De Jesus*, 473 Phil. 405, 427-428 (2004).

³¹ CA rollo, p. 40.

money, belonging to the passengers were taken by appellants by means of force and with obvious intent to gain. During the robbery, passenger Renato James Veloso and bus driver Lauro Santos were both mercilessly gunned down by Bacyaan.

Appellants deny the foregoing accusations. Guevarra claims that he was a mere innocent passenger of the bus. He was on his way home when he was arrested. Similarly, Fernandez asserts that he was only standing somewhere in the Balintawak Market when a shooting incident involving a bus occurred. After the commotion subsided, a policeman suddenly grabbed and accused him of being one of the hold-uppers. Meanwhile, Bacyaan insists that he was selling fruits in the Balintawak Market when policemen invited him to go to the Valenzuela Police Station for questioning. Later, he was detained in Camp Karingal, and thereafter, charged in connection with the robbery incident.

The Court is not convinced with the appellants' defenses. They merely denied participating in the robbery but their presence during the commission of the crime was well-established by the testimonies of the prosecution witnesses. It bears stating that “[f]or the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time the crime was committed, but that it was likewise impossible for him to be at the *locus criminis* at the time of the alleged crime.”³² Such physical impossibility was not sufficiently proven by appellants in this case.

As properly observed by the RTC and the CA, appellants' denial, too, cannot be given more weight over their positive identification by the prosecution witnesses. Furthermore, “[a] categorical and consistent positive identification without any showing of ill motive on the part of the eyewitnesses testifying on the matter prevail over a denial.”³³

The Court also agrees with the CA that the use of an unlicensed firearm was not duly proven by the prosecution. While it is true that the existence of the firearm can be established by mere testimony, the fact that an accused was not a licensed firearm holder must still be established. Here, the prosecution failed to present any written or testimonial evidence to prove that appellants did not have a license to

³² *People v. Butaslac*, G.R. No. 218274, March 13, 2019.

³³ *People v. Espia*, 792 Phil. 794, 805 (2016).

carry or own a firearm. Therefore, the use of an unlicensed firearm as an aggravating circumstance cannot be appreciated.³⁴

The penalty, damages, and civil liability.

The special complex crime of robbery with homicide under Article 294, paragraph 1 of the RPC is penalized with *reclusion perpetua* to death. Under the circumstances, the element of band, appreciated as a generic aggravating circumstance, would have merited the imposition of the death penalty. In view of RA 9346,³⁵ however, “the imposition of the penalty of death has been prohibited and in lieu thereof, the penalty of *reclusion perpetua* is to be imposed.”³⁶

The Court resolves, at this point, to modify the damages awarded by the CA. “In robbery with homicide, civil indemnity and moral damages are awarded automatically without need of allegation and evidence other than the death of the victim owing to the crime.”³⁷ Both the RTC and the CA were correct in granting these awards, except that the award should be ₱100,000.00 each. Recent jurisprudence provides that when the penalty to be imposed is death, civil indemnity and moral damages shall be awarded at ₱100,000.00 each.³⁸

Apart from civil indemnity and moral damages, the lower courts likewise properly awarded exemplary damages under Article 2230 of the Civil Code because of the presence of an aggravating circumstance and to serve as a deterrent to others similarly inclined. The Court, however, increases the awarded amount from ₱30,000.00 to ₱100,000.00 to conform to prevailing jurisprudence.³⁹

The Court likewise increases the amount of temperate damages awarded to the heirs of Renato James Veloso from ₱25,000.00 to ₱50,000.00 in accordance with *People v. Jugueta*.⁴⁰

³⁴ *People v. De Leon*, 608 Phil. 701, 725-726 (2009).

³⁵ An Act Prohibiting the Imposition of Death Penalty in the Philippines.

³⁶ *People v. Fernandez, et al.*, 796 Phil. 258, 273 (2016).

³⁷ See *People v. Villamor, et al.*, *supra* note 26.

³⁸ *Id.*

³⁹ See *People v. Villamor, et al.*, *supra* note 26, citing *People v. Buyagan*, 681 Phil. 569, 576-577 (2012). See also *People v. Gambao*, 718 Phil. 507, 531 (2013).

⁴⁰ 783 Phil. 806, 853 (2016).

AC

In addition, interest at the rate of 6% *per annum* shall be imposed on all monetary awards from the date of finality of this Decision until fully paid.

Finally, the Court orders appellants to restitute the stolen items or to pay their monetary value, *if* restitution is no longer possible.

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision dated January 18, 2017 of the Court of Appeals in CA-G.R. CR-H.C. No. 07670 is **AFFIRMED** with **MODIFICATION**. Appellants Jojo Bacyaan y Sabaniya, Ronnie Fernandez y Gonzales, and Ryan Guevarra y Sipria are found **GUILTY** beyond reasonable doubt of the crime of Robbery with Homicide and shall suffer the penalty of *reclusion perpetua*, without eligibility for parole.

Appellants are **ORDERED** to pay the heirs of Lauro Santos the following amounts: (1) ₱100,000.00 as civil indemnity; (2) ₱100,000.00 as moral damages; (3) ₱100,000.00 as exemplary damages; and (4) ₱50,536.00 as actual damages.

Appellants are likewise **ORDERED** to pay the heirs of Renato James Veloso the following amounts: (1) ₱100,000.00 as civil indemnity; (2) ₱100,000.00 as moral damages; (3) ₱100,000.00 as exemplary damages; and (4) ₱50,000.00 as temperate damages.

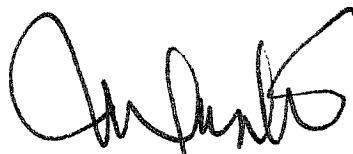
All monetary awards for damages shall earn interest at the legal rate of 6% *per annum* from the time of finality of this decision until fully paid.

Appellants are **ORDERED** to **RETURN** the value of the stolen items *if* restitution is no longer possible.

SO ORDERED.


HENRIJEAN PAUL B. INTING
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

^{Reyes}
ANDRES B. REYES, JR.
Associate Justice

(*On leave*)
RAMON PAUL L. HERNANDO
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.

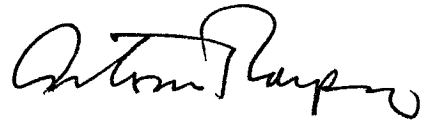


DIOSDADO M. PERALTA
Associate Justice
Chairperson



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.



ANTONIO T. CARPIO*
Acting Chief Justice

CERTIFIED TRUE COPY

Mis DCR Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

NOV 08 2019

* Designated as Acting Chief Justice per Special Order No. 2703 dated September 10, 2019.