



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 236455

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
LAZARO-JAVIER,
LOPEZ, and
ZALAMEDA,* JJ.

- versus -

HARON RAMOS y
ROMINIMBANG,
Accused-Appellant.

Promulgated:

FEB 19 2020

X-----

DECISION

PERALTA, C.J.:

On appeal is the August 17, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08593 which affirmed the August 19, 2016 Decision² of the Regional Trial Court (RTC), Branch 13, City of Manila in Criminal Case No. 12-290250, finding the accused-appellant Haron Ramos y Rominimbang (*Ramos*), guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act (R.A.) No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*.

In an Information dated March 21, 2012, Ramos was charged with violation of Section 5, Article II of R.A. No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002* committed as follows:

* Designated Additional Member, in lieu of Associate Justice Jose C. Reyes, Jr., per Raffle dated February 3, 2020.

¹ Penned by Associate Justice Jose C. Reyes, Jr. (now a member of this Court), with Associate Justices Jane Aurora C. Lantion and Victoria Isabel A. Paredes, concurring; *rollo* pp. 2-18, CA *rollo*, pp. 87-103

² CA *rollo*, pp. 43-48.

That on or about March 15, 2012, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver, transport or distribute any dangerous drug, did then and there willfully, unlawfully, knowingly sell or offer for sale to a police officer/poseur-buyer one (1) heat-sealed transparent plastic bag marked as EXH. A-2 LAD 03/15/12 containing FORTY-SEVEN POINT THREE SEVEN FIVE TWO (47.3752) grams of white crystalline substance known as SHABU containing Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.³

In his arraignment, Ramos pleaded not guilty⁴ to the crime charged. He was detained at the Manila City Jail during the trial of the case.

The prosecution presented witnesses, namely, Intelligence Officer 1 (IO1) Lawrence Anthony Dalignon (*Dalignon*) and IO1 Angelito Villaspin (*Villaspin*), while the testimonies of Security Officer III (SOIII) Romano Alfonso (*Alfonso*) and Jimmy Mendoza (*Mendoza*) as member of the media, were stipulated and dispensed with. The defense for its part presented the accused-appellant and his wife, Florence Ramos.

Version of the Prosecution

On March 15, 2012, at around 7:30 in the morning, a briefing was held at the Philippine Drug Enforcement Agency, Regional Office, National Capital Region (*PDEA RO-NCR*) in Quezon City regarding a buy-bust operation involving a certain "*Haron*," who, according to a report of a confidential informant, was involved in selling illegal drugs in the City of Manila. The buy-bust team was led by SOIII Alfonso, composed of IO1 Dalignon as the designated poseur-buyer, IO1 Villaspin as the arresting officer and the confidential informant. The confidential informant told the team that he can arrange a deal for the purchase of a large quantity of dangerous drugs with Ramos. Further, SOIII Alfonso told the informant to place an order of fifty (50) grams of shabu worth two hundred sixty thousand pesos (₱260,000.00). The deal was to take place in front of the Surplus Shop at SM Manila in the afternoon of the same day. Also during the briefing, the buy-bust money was prepared consisting of two (2) pieces of genuine five hundred peso bills (₱500.00) with serial numbers W360222 and VA154966. It was, subsequently, marked with "LAD," initials of IO1 Dalignon, in the lower right corner of the bill. The buy-bust money was arranged in such a manner that the genuine bills are placed on top, and the boodle money at the bottom. Thereafter, IO1 Dalignon prepared the Pre-Operation Report signed by SOIII Alfonso.


³ Records, p. 1.

⁴ Id. at 32.

At around 10 a.m. of the same day, the buy-bust team left the PDEA Office and went to the Manila Police District (*MPD*) to coordinate the operation. Eventually, the team went to SM Manila and arrived at around 12 noon to familiarize themselves with the agreed meeting place. The team took their lunch, while the confidential informant was in constant communication with Ramos. Afterwards, they returned to the Surplus Shop to wait for Ramos. At around 3:45 in the afternoon, Ramos arrived and the confidential informant introduced IO1 Dalignon to him as the buyer of "shabu." Ramos then asked IO1 Dalignon if he had the agreed money and the latter positively confirmed, but demanded to see the subject merchandise first. Heeding to the demand, Ramos pulled out from his right pocket a small plastic bag of diaper labeled as "Happy" and showed it to IO1 Dalignon. The latter opened the plastic bag and saw a wrapping paper containing a heat-sealed transparent plastic bag containing white crystalline substance. In return, IO1 Dalignon handed Ramos the two hundred sixty thousand pesos (₱260,000.00) marked money as payment. To inform the other members of the buy-bust team that the sale was already consummated, IO1 Dalignon removed his ball cap as a pre-arranged signal and immediately introduced himself as a PDEA agent. The other members of the team rushed to the scene and arrested Ramos. Immediately thereafter, IO1 Villaspin informed Ramos of his constitutional rights and recovered from the latter the buy-bust money.

Further, the arrest resulted in a commotion making the scene crowded at that time. Due to this fact, SOIII Alfonso made a decision and ordered the team to bring Ramos and the seized items to their office in Quezon City, since it was impractical to have the inventory in a crowded area. At the PDEA Office, SOIII Alfonso called Barangay Kagawa Jose Y. Ruiz, Jr. of Barangay Pinyahan, Quezon City and Jimmy Mendoza, a media representative, to witness the physical inventory and taking of photographs of the seized items. In the presence of the said witnesses, the seized items were marked as follows: the diaper plastic bag labeled "Happy" was marked as "EXH A LAD 03/15/12"; the wrapping paper was marked as "EXH A-1 LAD 03/15/12"; and the heat-sealed transparent plastic bag containing white crystalline substance was marked as "EXH A-2 LAD 03/15/12."

Later on, SOIII Alfonso prepared a request for drug test on Ramos. On the other hand, IO1 Dalignon submitted the plastic bag containing the specimen to the laboratory service of the PDEA for quantitative and qualitative analysis. The drug test on Ramos resulted negative for drugs, while the laboratory examination conducted by PDEA Chemist Ronald V. Bobis showed that the white crystalline substance weighed 47.3752 grams and yielded a positive result for the presence of Methamphetamine Hydrochloride, a dangerous drug.



Version of the Defense

Around 1:00 p.m. on March 15, 2012, Ramos was riding a train when his wife Florence called and asked to be fetched at SM Manila. He arrived at the SM Food Court at around 3:00 p.m. when several men blocked him. Two of the said men embraced him, one warned him not to move and another held him in the neck while they roamed around the mall until they reached the cinema and went back to the ground floor. Ramos asked the men around him what they need and pleaded to just turn him over to the mall security or the barangay. As they reached the parking lot, Ramos saw his wife shouting while being boarded in a vehicle by several men. Thereafter, he was boarded in the same vehicle noticing five armed men and was, subsequently, beaten inside the vehicle.

Ramos was brought to the PDEA Office where two men entered the room where the former was held, talked to him and demanded the amount of five hundred thousand pesos (₱500,000.00) for his freedom. However, Ramos told the men that he could not produce the said amount since he was only a vendor from Bulacan. For a while, the said men left the room but came back to beat Ramos again and placed him in handcuffs. Ramos was then transferred to a room downstairs, his handcuffs were removed as the men placed a paper, plastic and money on the table with him while taking a photograph. Right after, he was asked to sign a document. Ramos was told that they recovered prohibited drug from his wife and he was subsequently put in to jail. Eventually, Ramos was submitted for medical examination and the said men ordered him to deny that he was beaten up by the arresting officers when asked by the attending physician. The following day, he was brought for inquest.

Meanwhile, Florence, wife of Ramos, testified that on the same date, while she was at the SM Supermarket, she saw men running towards her, one of these men holding a happy diaper plastic and held her. She was asked by the said men to go with them and they roamed her around the mall. Subsequently, she was brought to the parking lot where she saw her husband inside a vehicle. She and her husband were taken to the PDEA Office in Quezon City, but she did not see her husband there. She was eventually released and told to go home. Florence claimed that she was not charged with any offense, it was only her husband who got arrested and charged.

RTC Ruling

After trial, the RTC handed a guilty verdict on Ramos for illegal possession and sale of *shabu*. The dispositive portion of the August 19, 2016 Decision states:

WHEREFORE, in view of the foregoing, this Court finds the accused HARON RAMOS y ROMINIMBANG guilty beyond reasonable doubt as principal for violation of Section 5 of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 (for pushing shabu) as charged and sentences him to suffer the penalty of LIFE IMPRISONMENT and to pay a Fine in the amount of P500,000.00.

The plastic sachet/bag of shabu and other items bought and recovered from the accused are ordered confiscated in favor of the government to be disposed of in accordance with law.

Issue a mittimus order committing HARON RAMOS y ROMINIMBANG to the National Bilibid Prisons for service of sentence.

Send copies of this Decision to the Director General of the Philippine Drug Enforcement Agency (PDEA) and to the Director of the National Bureau of Investigation (NBI).

SO ORDERED⁵

CA Ruling

On appeal, the CA affirmed the RTC Decision. The CA agreed with the findings of the trial court that the prosecution effectively established all the elements of illegal sale of dangerous drugs. For the appellate court, the non-presentation of the confidential informant is not fatal to the case and the testimony of IO1 Dalignon adequately proved the illegal drug transaction having personal knowledge about the transaction. Further, the CA was convinced that accused-appellant was caught in the very act of unlawfully selling drugs, there was, therefore, no need for a warrant to effect his arrest and seize the fruit of the crime. Lastly, the CA was in the position that even if the police officers did not strictly comply with the requirements of Section 21, Article II of the Implementing Rules and Regulations (*IRR*) of R.A. 9165, the non-compliance was under justifiable grounds. It did not affect the integrity and evidentiary weight of the drugs seized from the accused-appellant and the chain of custody of evidence in the present case is shown to be unbroken.

⁵ CA rollo, pp. 47-48.

Before Us, the People and Ramos manifested that they would no longer file a Supplemental Brief, taking into account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA. Essentially, Ramos maintains his position that the witnesses for the prosecution did not have personal knowledge of the alleged sale transaction. The accused-appellant added that the plastic sachet containing “shabu” is inadmissible as the police officers did not have probable cause to arrest him. Ultimately, the accused-appellant claims that the prosecution failed to duly establish the integrity and identity of the plastic sachet containing “shabu.”

Our Ruling

We find the appeal meritorious. The judgment of conviction is reversed and set aside, and Ramos should be acquitted based on reasonable doubt.

Under Section 5, Article II of R.A. No. 9165, or illegal sale of prohibited drugs, in order to be convicted of the said violation, the following must concur:

x x x (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.⁶

In illegal sale of dangerous drugs, the illicit drugs confiscated from the accused comprise the *corpus delicti* of the charge.⁷ In *People v. Gatlabayan*,⁸ "the Court held that it is of paramount importance that the identity of the dangerous drug be established beyond reasonable doubt; and that it must be proven with certitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court."⁹ In fine, the illegal drug must be produced before the court as exhibit and that which was exhibited must be the very same substance recovered from the suspect."¹⁰ Thus, the chain of custody carries out this purpose "as it ensures that unnecessary doubts concerning the identity of the evidence are removed."¹¹

The prosecution failed to establish the chain of custody of the seized *shabu* from the time they were recovered from accused-appellant up to the time they were presented in court. Section l(b) of Dangerous Drugs Board

⁶ *People v. Ismael*, 806 Phil 21, 29 (2017)

⁷ *Id.*

⁸ 669 Phil. 240 (2011).

⁹ *Id.* at 252.

¹⁰ *People v. Mirondo*, 771 Phil. 345, 356-357 (2015).

¹¹ See *People v. Ismael*, *supra* note 6.

Regulation No. 1, Series of 2002,¹² which implements the Comprehensive Dangerous Drugs Act of 2002, defines chain of custody as follows:

Chain of Custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

To ensure an unbroken chain of custody, Section 21(1) of R.A. No. 9165 specifies:

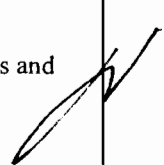
- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

Supplementing the above-quoted provision, Section 21(a) of the IRR of R.A. No. 9165 provides:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.

On July 15, 2014, R.A. No. 10640 was approved to amend R.A. No. 9165. Among other modifications, it essentially incorporated the saving clause contained in the IRR, thus:

¹² Guidelines of the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals and Laboratory Equipment.



- (1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That non-compliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

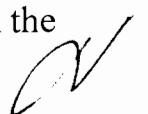
We have held that the immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.¹³ The present case is not one of those.

The physical inventory and photograph as evidenced by the Certificate of Inventory were done at the PDEA Regional Office, National Capital Region (PDEA RO-NCR) in Quezon City and not where the buy-bust operation was conducted. Although this processes may be excused under justifiable grounds, the present case is not one of those. The allegation that the physical inventory and photograph were not done in the crime scene because of a commotion will not suffice. The prosecution failed to expound how the safety of the operatives and Ramos were threatened with the said commotion.

Even assuming that such commotion will be a security threat against the operatives and Ramos, the buy-bust team can go to the security office of the mall and conduct the inventory therein. It is also undeniable that there are police stations closer to SM Manila. It is even mentioned in the Affidavits of the Poseur-Buyer and the Arresting Officer that the buy-bust team coordinated their operation with the Manila Police District, and yet, the inventory was conducted in Quezon City.

Ramos committed the crime charged in 2012 and under the original provision of Section 21 of R.A. No. 9165 and its IRR, the apprehending team was required to immediately conduct a physical inventory and photograph the

¹³ *People v. Mola*, G.R. No. 226481, April 18, 2018



drugs after their seizure and confiscation in the presence of: (a) appellant or his counsel or representative; (b) a representative from the media; (c) a representative from the DOJ; and (d) any elected public official, all of whom shall be required to sign copies of the inventory and be given a copy thereof. The presence of the three witnesses was intended as a guarantee against planting of evidence and frame up, as they were "necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity."¹⁴

It was apparent from the Inventory of Seized Properties/Items¹⁵ that was signed by the representative from the media, and an elected public official, but there is no signature of the DOJ Representative. Under the original provision of Section 21 of R.A. No. 9165 and its IRR, a DOJ Representative is required to witness the conduct of physical inventory and photograph of the seized item. However, the prosecution failed to justify the absence of the said DOJ representative. There is no explanation or justification on record at all why the presence of the required witnesses under Section 21 of R.A. No. 9165 was not procured. The justifiable ground for non-compliance must be proven as a fact because the Court cannot presume what these grounds are or that they even exist.¹⁶

Hence, the prosecution failed to prove valid causes for non-compliance of the procedure laid down in Section 21 of R.A. 9165, as amended. Worst, considering that the seizure happened in a highly-urbanized city, the availability of DOJ representative can be easily procured. The testimonies of the witnesses in open court and in their Affidavits miserably failed to mention the causes for the non-compliance of Section 21. There was no evidence that the buy-bust team exerted earnest effort to comply with the requirements of the law as to the place of the conduct of inventory and the witnesses present during the physical inventory of the seized items.

Earnest efforts to secure the attendance of the necessary witnesses must also be proven as held in *People v. Wilson Ramos y Cabanatan*,¹⁷ thus:

It is well to note that the absence of these required witnesses does not per se render the confiscated items inadmissible. However, a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that earnest efforts were employed in contacting the representatives enumerated under the law for "a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse." Verily, mere statements of unavailability, absent actual

¹⁴ *People v. Sagana*, G.R. No. 208471, August 2, 2017, 834 SCRA 225, 247.

¹⁵ Records (Prosecution's Exhibits), p. 15

¹⁶ *Id.*

¹⁷ G.R. No. 233744, February 28, 2018.

serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing fully well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state the reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.

It is imperative for the prosecution to show the courts that the non-compliance with the procedural safeguards provided under Section 21 was not consciously ignored. The procedure is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects. While the non-compliance with Section 21 of R.A. No. 9165 is not fatal to the prosecution's case, provided that the integrity and evidentiary value of the seized items are properly preserved by the apprehending officers, this exception will only be triggered by the existence of a ground that justifies departure from the general rule. The saving clause applies only (1) where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds, and (2) when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved.¹⁸

The prosecution's unjustified non-compliance with the required procedures under Section 21 of R.A. No. 9165 and its IRR resulted in a substantial gap in the chain of custody of the seized item from Ramos; thus, the integrity and evidentiary value of the drugs seized are put in question. Hence, this Court finds it necessary to acquit Ramos for failure of the prosecution to prove his guilt beyond reasonable doubt.

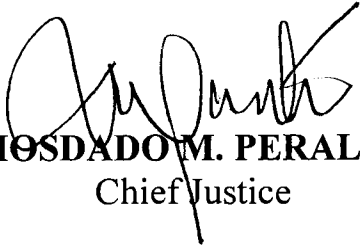
WHEREFORE, premises considered, the August 17, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08593, which affirmed the August 19, 2016 Decision of the Regional Trial Court, Branch 13, City of Manila in Criminal Case No. 12-290250, finding the accused-appellant Haron Ramos y Rominimbang, guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*, is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Haron Ramos y Rominimbang is **ACQUITTED** on reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.



¹⁸ *People v. Joy Jigger P. Bayang, et al.*, G.R. No. 234038, March 13, 2019.

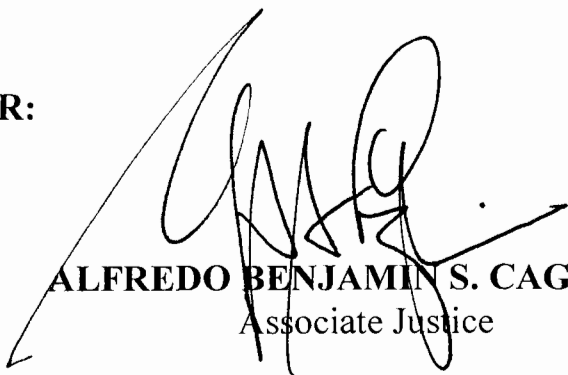
Let a copy of this Decision be furnished the Director of the Bureau of Corrections, New Bilibid Prison, Muntinlupa City, for immediate implementation. Said Director is **ORDERED** to **REPORT** to this Court within five (5) working days from receipt of this Decision the action he has taken.

SO ORDERED.

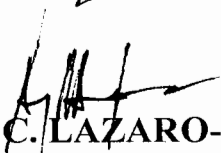


DIOSDADO M. PERALTA
Chief Justice

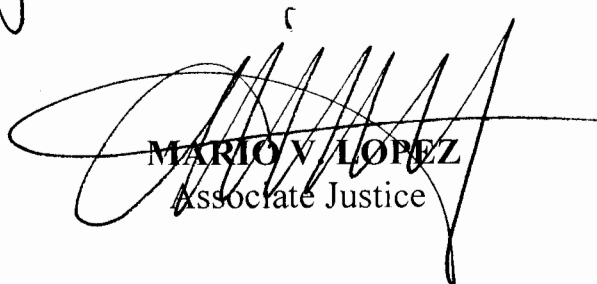
WE CONCUR:



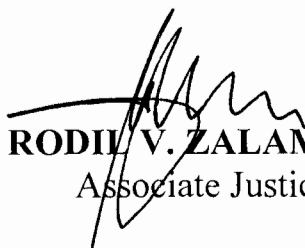
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



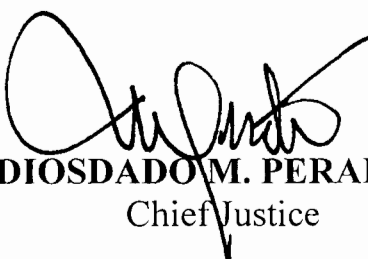
MARIO V. LOPEZ
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice