



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines

Supreme Court

Manila

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FIRST DIVISION

HEIRS OF THE LATE SPOUSES
VICTOR L. MONTEVILLA and
RESTITUTA C. MONTEVILLA,
represented by ATTY. ANITA C.
MONTEVILLA,

Petitioners.

G.R. No. 234419

Present:

PERALTA, C.J., Chairperson,
CAGUIOA, Working Chairperson,
REYES, J. JR.,
LAZARO-JAVIER, and
INTING,* JJ.

- versus -

SPOUSES LEO A. VALLENA and
MELBA G. VALLENA,

Respondents.

Promulgated:

DEC 05 2019

X -----

DECISION

REYES, J. JR., J.:

This is an unlawful detainer case of an unregistered property.

The Case

The petition assails the March 16, 2017 Decision¹ and September 7, 2017 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 143742, which reversed the July 7, 2015 Regional Trial Court (RTC) Decision³ in Civil Case No. 7001. The RTC affirmed the July 8, 2014 Municipal Circuit Trial Court (MCTC) Decision⁴ in Civil Case 068.

* Additional Member per Special Order No. 2726.

¹ Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Sesonando E. Villon and Rodil V. Zalameda (now a member of the Court), concurring; *rollo*, pp. 42-51.

² Id. at 40-41.

³ Penned by Judge Maximino R. Ables; id. at 69-72.

⁴ Penned by Judge-Designate Igmedio Emilio F. Camposano; id. at 60-68.

The Facts

Petitioners (the Montevillas) are the heirs of Victor L. Montevilla (Victor) and Restituta C. Montevilla (spouses Montevilla), who left their children several parcels of land and one of which is Lot No. 1 (Lot 1) in Dimasalang, Masbate, covered by Tax Declaration No. 3007.⁵

In 1961, Victor sold a portion of Lot 1, measuring 58 square meters, to Benigno Zeta (Benigno), who sold it to Roman Manlangit (Roman). The latter sold the lot to Jose Vallena (Jose), father of respondent Leo Vallena (Leo).⁶

At the back of Jose's land was a vacant lot owned by Victor. In 1993,⁷ respondent spouses Leo and Melba Vallena (spouses Vallena) sought permission from Jorge Montevilla⁸ (Jorge), one of Victor's heirs, to use a portion of the vacant lot, measuring 40 square meters, as storage for their *patis* business. Jorge agreed on condition that the structure would be made of light materials. However, when the business prospered, spouses Vallena built a two-storey concrete building without the Montevilla's knowledge, consent, and in defiance of their agreement.⁹

On May 17, 1994, the administrator of spouses Montevilla's estate, Anita C. Montevilla (Anita), called spouses Vallena's attention on the illegal structure. However, Anita and her sister underwent verbal abuse and threat from Leo. The Montevillas demanded payment of ₱1,000.00 as monthly rent beginning May, 1994, and to vacate the lot. The demand was unheeded, prompting the Montevillas to file a civil action for ejectment on April 10, 1995.¹⁰

For their part, spouses Vallena denied the Montevilla's allegations. They alleged that Victor sold to Benigno a 58-square meter lot and a 36-square meter lot, or a total of 94 square meters. Benigno sold the 94-square meter lot to Roman, who eventually sold it to Jose. They averred that there is a private document wherein Victor sold to Jose a 4-square meter lot, bringing a total of 98 square meters in Jose's name.¹¹

They asserted that they have been in possession of the contested lot since 1982 up to the present without interruption. Tax Declaration No. 0020 in Jose's name was issued in 1990 because Jose or his successors-in-interest were in actual physical possession of the land.¹² The tax declaration indicated 98 square meters.¹³ However, spouses Vallena were unable to

⁵ Id. at 42-43.

⁶ Id. at 60.

⁷ Records. p. 29.

⁸ Also referred as George in some parts of the records.

⁹ *Rollo*, p. 43.

¹⁰ Id. at 43 and 61.

¹¹ Id. at 44.

¹² Id. at 61-62.

¹³ Id. at 63.

present the documents of sale because they were either burned or misplaced during Jose's lifetime.¹⁴

The MCTC Decision

On July 8, 2014, the MCTC rendered a decision in Montevilla's favor. The MCTC held that spouses Vallena failed to produce the original documents of sale to prove that Jose acquired the contested lot. They presented photocopies of the acknowledgement receipts pertaining to the sale between Victor and Benigno, and Victor and Jose. The MCTC explained that since the validity of the sale was questioned, it is incumbent upon spouses Vallena to produce the original documents for examination of its genuineness and due execution. The MCTC was suspicious of the receipts' integrity, because it observed that Victor's signatures appear to be too similar despite the 20-year gap in their execution. The MCTC expounded that it is natural for a person's handwriting to change or deteriorate over time. The MCTC further observed that only one typewriter was used in the document's preparation.¹⁵

Moreover, the MCTC elucidated that even if the court accepted the photocopies as evidence in place of the originals, they were not evidence of sale of the contested lot, because they lack one of the elements of a valid contract. The elements of a contract are consent, object, and consideration. The MCTC found the second element to be lacking, because the photocopied acknowledgement receipts did not sufficiently describe the object of the sale: (1) the location of the property was not specified; (2) there is a blot on the figure representing the dimension of the lot, forcing any reader to guess the size of the lot; and (3) the lot was labelled as swamp land at the back of the house of Jose Vallena, without specific area indicated. The receipts did not fulfill the requirement of the law on certainty of the object of a contract. Hence, there was no perfected and valid contract of sale.¹⁶

The MCTC declared that the Montevillas own the 40-square meter lot, ordered spouses Vallena to vacate and remove all its improvements on the subject lot, and to pay ₱200.00 as monthly rent from April 1995 until the lot is vacated and ₱10,000.00 as cost of litigation.¹⁷ Aggrieved, spouses Vallena appealed to the RTC.

The RTC Decision

On July 7, 2015, the RTC affirmed the MCTC decision.¹⁸ Spouses Vallena raised the issue of lack of certificate to file action from the *barangay* and special power of attorney of Anita as representative of the Montevillas.

¹⁴ Id. at 61-62.

¹⁵ Id. at 63-65.

¹⁶ Id. at 65-67.

¹⁷ Id. at 67.

¹⁸ Id. at 72.

The RTC resolved that the reconstituted records showed copies of the said documents.¹⁹

The RTC discussed that in unlawful detainer, it is must be shown that the possession was initially lawful and later turned unlawful upon the expiration of the right to possess. The Montevillas allowed spouses Vallena to occupy the contested lot and build a structure of light materials. Their occupation was by mere tolerance, which ended when the Montevillas discovered that they violated the condition by building a concrete building.²⁰ Thus, the RTC sustained the MCTC's ruling.²¹

Spouses Vallena moved for reconsideration, which the RTC denied in its October 28, 2015 Order.²² Unperturbed, they elevated the matter before the CA.

The CA Decision

On March 16, 2017, the CA reversed the RTC decision, and dismissed the complaint for lack of merit.²³

On the procedural aspect, the CA did not give credence to spouses Vallena's arguments. The CA clarified that the absence or belated filing of a special power of attorney is not a ground for the dismissal of a complaint. It is not even necessary in this case, because as one of the heirs of spouses Montevilla and a co-owner of the contested lot, Anita may, by herself, bring an action for the recovery of the co-owned property without the necessity of joining all the co-owners. It is presumed that the action was brought for the benefit of all co-owners.²⁴

The CA also pointed out that non-referral of a case for *barangay* conciliation, when required by the law, is not jurisdictional and may be waived if not timely raised. Here, spouses Vallena raised the issue only on appeal to the RTC, and failed to include it in their answer and position paper or motion to dismiss. Therefore, they have waived the issue.²⁵

On the substantive aspect, the CA elucidated that in ejectment, the plaintiff must prove prior physical possession to recover the property, even against an owner. Otherwise, the plaintiff has no right of action, even if he/she is the owner of the property.²⁶

¹⁹ Id. at 69-70.

²⁰ Id. at 71-72.

²¹ Id. at 72.

²² CA *rollo*, p. 29.

²³ *Rollo*, pp. 50-51.

²⁴ Id. at 47.

²⁵ Id.

²⁶ Id. at 50.

Here, the Montevillas claim ownership of the lot without offering any evidence. On the other hand, spouses Vallena proved that their occupation was the result of Jose's acquisition of the lot. The CA found spouses Vallena's version more credible. The CA reasoned that tax declarations and payment of realty tax are indications of possession in the concept of an owner, although they are not conclusive proof. The CA rationalized that no one in his right mind would be paying realty taxes that is not in his/her actual or constructive possession. Hence, the CA ruled in spouses Vallena's favor and dismissed the complaint.²⁷

The Montevillas moved for reconsideration, which the CA denied in its September 7, 2017 Resolution. Unconvinced, the Montevillas filed the present petition under Rule 45. The Montevillas alleged that: (1) the affidavits of Jorge and Anita, the demand letter, and the affidavit of the boundary lot owners are proof that the spouses Vallena are occupying the contested lot out of their tolerance; (2) prior physical possession need not be proved in unlawful detainer; (3) the CA should not have entertained the issue on tax declaration and payment of realty taxes, which were raised for the first time on appeal; and (4) the findings of fact of the trial courts are given weight on appeal because of their position to examine the evidence.²⁸

In their Comment,²⁹ spouses Vallena essentially argued that the issues raised in the petition are not questions of law and should not be entertained by the Court.

In their Reply,³⁰ the Montevillas reiterated the contentions raised in their Petition.

The Issue Presented

Whether or not the CA committed an error in reversing the RTC decision, and in ruling that spouses Vallena have the right of possession over the 40-square meter lot.

The Court's Ruling

The petition has merit.

²⁷ Id.

²⁸ Id. at 15-30.

²⁹ Id. at 112-118.

³⁰ Id. at 120-142.

The general rule in a petition for review on *certiorari* under Rule 45 of the Rules of Court is that only questions of law should be raised. In *Republic v. Heirs of Eladio Santiago*,³¹ the Court enumerated that one of the exceptions to the general rule is when the CA's findings are contrary to those of the trial court. Considering the different findings of fact and conclusions of law of the MCTC, RTC, and the CA, the Court shall entertain this petition, which involves a re-assessment of the evidence presented. In resolving the issue of possession, the Court will provisionally determine the issue of ownership since both parties claim to be the owners.

In its decision, the CA held that the Montevillas did not offer evidence of prior physical possession.³²

The Court disagrees. Section 4, Rule 129 of the Rules of Court on judicial admission states that an admission, verbal or written, made by the party in the course of the proceedings in the same case, does not require proof.

Here, the spouses Vallena admitted in their pleadings that Victor was the original owner and alleged seller of the contested 40-square meter lot.³³ Their admission means that they recognize that Victor had prior possession of the lot before he allegedly sold it to them. A seller must have exercised acts of ownership, such as physical possession and acts of administration, before entering into a transaction over his property. With spouses Vallena's judicial admission, the Montevillas need not prove prior physical possession, because upon Victor's death, his rights, including the right of possession, over the contested lot were transmitted to his heirs by operation of law.

The CA did not uphold the MCTC's finding that the alleged contract of sale is imperfect and invalid.³⁴

To this, the Court differs. It is an established rule that findings of fact of the trial courts are entitled to great weight and credence since they are in the best position to evaluate the evidence. Here, the MCTC had the first opportunity to scrutinize spouses Vallena's documentary exhibits³⁵ on the alleged sale, namely: (1) Exhibit 4, a photocopy of the May 2, 1961 deed of

³¹ 808 Phil. 19-10 (2017).

Moreover, the factual findings of the CA affirming those of the trial court are final and conclusive. They cannot be reviewed by this Court, save only in the following circumstances: (1) when the factual conclusion is a finding grounded entirely on speculations, surmises and conjectures; (2) when the inference is manifestly mistaken, absurd or impossible; (3) when there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA went beyond the issues of the case in making its findings, which are further contrary to the admissions of both the appellant and the appellee; (7) when the CA's findings are contrary to those of the trial court; (8) when the conclusions do not cite the specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) when the CA's findings of fact, supposedly premised on the absence of evidence, are contradicted by the evidence on record. x x x (Citation omitted)

³² *Rollo*, p. 48.

³³ Records, p. 19.

³⁴ *Rollo*, pp. 49-50.

³⁵ CA *rollo*, pp. 63-64.

sale between Victor and Benigno; (2) Exhibit 5, a photocopy of the December 4, 1963 acknowledgement receipt of payment between Victor and Benigno; and (3) Exhibit 6, a photocopy of the January 3, 1982 acknowledgment receipt of payment between Victor and Jose. The MCTC resolved that since the validity of Jose's acquisition is in question, spouses Vallena should have produced the original documents to examine its genuineness and due execution.

The Court sustains the MCTC's ruling. Section 3, Rule 130 of the Rules of Court on best evidence rule states that when the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself.

Here, spouses Vallena presented photocopies of the alleged deed of sale and alleged acknowledgment receipts. They claim that the original copies were misplaced, missing, lost, or burned,³⁶ but they were unable to state with certainty the circumstances surrounding its disappearance. Importantly, they failed to prove that the original documents existed in the first place. Without the original documents, spouses Vallena failed to prove that Jose bought the contested lot partly from Victor and partly from Roman.

The Court also noticed that the deed of sale and one of the acknowledgement receipts pertain to a sale between Victor and Benigno. The deed of sale specified that Victor sold a lot, measuring 58 square meters, to Benigno for ₱210.00. The two documents show that a transaction took place between them, and nowhere does Jose's name appear in these documents. These documents do not prove that Victor and Jose or Benigno and Jose entered into a contract of sale.

As for the other acknowledgement receipt allegedly between Victor and Jose, the Court also upholds the MCTC ruling that even if the court accepts the photocopies as evidence, they are not sufficient evidence of a contract of sale for lack of one of the elements – certainty of object under Article 1318³⁷ of the New Civil Code of the Philippines. Since spouses Vallena were unable to prove that Jose bought the contested lot from Victor, their main defense crumbles.

The Court reviewed Exhibit 7 (spouses Vallena's Joint Affidavit³⁸) and found that they failed to indicate with certainty the size of the land that Victor and Roman allegedly sold to Jose. Spouses Vallenas' Answer³⁹ and Position Paper⁴⁰ also contain ambiguous allegations on the exact

³⁶ Records, pp. 19, 87.

³⁷ Art. 1318. There is no contract unless the following requisites concur:
(1) Consent of the contracting parties;
(2) Object certain which is the subject matter of the contract;
(3) Cause of the obligation which is established.

³⁸ Records, p. 95.

³⁹ Id. at 9-12.

⁴⁰ Id. 87-90.

measurement of the lot allegedly sold. The Position Paper states the following:

The area which was sold to Benigno Zita was only 58 [s]quare [m]eters with an additional area having 12 meters in length and a **blurred or not readable width which could either be 8, 5 or 3 meters and assuming that it was only 3 meters** by 12 meters or 36 [s]quare [m]eters to be added to 58 square meters, the total area of which will be 94 [s]quare [m]eters.

In a private instrument, the late Victor L. Montevilla also sold a portion of land **with no specific area** and tax declaration for P2,000.00, Exhibit "6" for the defendants and **granting without admitting that the area was only 4 square meters**, then the total area will be 98 square meters x x x.⁴¹ (Emphases supplied)

If spouses Vallena do not know the exact size of the land which Jose allegedly bought from Victor and Roman, how can they convince the Court to grant them possession of the contested lot? It is precisely for this reason that the original copies of the documents of sale must be presented in the trial court.

On the other hand, the Court evaluated the Montevilla's documentary exhibits and found that they support their claim of ownership, prior possession, and tolerance as to spouses Vallena's occupation of the contested lot.

First, Exhibit "E" (Jorge's Affidavit⁴²) narrated that in 1993, spouses Vallena approached him and sought permission from him to occupy the contested lot to be used as storage for their *patis* business. Considering that they were all government employees and Jose was the godfather of Jorge's nephew, the latter granted permission on condition that spouses Vallena would build a temporary structure with nipa thatches as roofing. Spouses Vallena also assured him that they would demolish the structure upon demand.

The Court observed that spouses Vallena did not deny that there was indeed a *patis* business operating on the contested lot. They claimed that they were only the caretakers of Ambrocio Gaviola (Gaviola), Jr.'s business.⁴³ However, spouses Vallena did not present proof that Gaviola owns the business. Thus, the Court does not give credence to their unsubstantiated and self-serving claim.

Second, Exhibits "I" (June 19, 1995 Certification⁴⁴ of Alejandro A. Tamayo [Tamayo] as the Municipal Assessor of Dimasalang, Masbate) and "J" (Sketch Plan⁴⁵ issued by Tamayo) reveal that Tamayo conducted an

⁴¹ Id. at 89.

⁴² Id. at 55.

⁴³ Id. at 9.

⁴⁴ Id. at 63.

⁴⁵ Id. at 64.

ocular inspection on May 20, 1995 on Victor's property in Poblacion, Dimasalang, Masbate, covered by Tax Declaration 3007. The exhibits contained Tamayo's certification that Victor's property consisted of 2,134 square meters, and he sold a total of 957 square meters to different buyers. Jose's name was not among the buyers listed. The remaining area left is 1,177 square meters, which was identified as Lot 10.

Tamayo also certified that Lot 7, (measuring 98 square meters) and covered by Tax Declaration 0020, was declared in Jose's name upon Leo's request during the tax mapping operation in 1990, but he did not present any document of conveyance from the actual owner, Victor, to support his claim of ownership to the lot. Tamayo also categorically stated that the June 19, 1995 Certification superseded the April 24, 1995 Certification that he issued.

Third, Exhibit "K" (Tamayo's affidavit dated November 3, 1997)⁴⁶ reiterated the contents of Exhibits "I" and "J," which were issued after he conducted an ocular inspection on Victor's property. He clarified that his June 19, 1995 Certification nullified the April 24, 1995 Certification, which stated that Victor's property consisted of 100 square meters. He also stated that Tax Declaration 4983 was issued anew in Victor's name on June 25, 1997, showing that his property measured 1,177 square meters.

Fourth, Exhibit "O" (Anita's Affidavit)⁴⁷ corroborated Jorge's narration on when and how he permitted spouses Vallena to occupy the contested lot for their *patis* business. She discovered the illegal structure on May 17, 1994 when she went home to pay the realty tax of their parents' property. She had been diligently paying the realty taxes in advance for the succeeding years.

Anita's affidavit disclosed that during the ocular inspection, Tamayo was accompanied by *Barangay* Chairman Bibiano Inocencio, Arlin Mitra, Nardito Tinay, Carlos Legazpi, Jorge Montevilla, and other lot buyers. Tamayo borrowed the deeds of sale between Victor and the buyers, which became the basis of his inspection.⁴⁸

The Court thinks that the presence of the owners and occupants of the land surrounding the contested lot makes Tamayo's sketch plan, certification, and affidavit credible. Any undue influence, intimidation, or threat during the conduct of the inspection would be blocked by these witnesses. Further, the Court observed that spouses Vallena did not present any deed of sale to prove to Tamayo that Jose owned the contested lot and they inherited it from him. The ocular inspection was a good opportunity for spouses Vallena to prove to the Montevillas and to their neighbors that they are the rightful owners and possessors of the contested lot, however, they failed to grab that opportunity because they had no evidence to support their claim.

⁴⁶ Id. at 65-66.

⁴⁷ Id. at 82-86.

⁴⁸ Id. at 84-85.

Fifth, Exhibits "H" to "H-3" (Deeds of Sale between Victor and Manuel Tigpos, Carlos Legazpi, Arlin Mitra and Lucio Abad),⁴⁹ substantiate Anita's affidavit, Tamayo's sketch plan, certification, and affidavit as to the portions that were sold by Victor. The buyers in the deeds are Jose's neighbors and lot owners surrounding the contested lot.

The Court emphasizes that spouses Vallena did not present any deed of sale; thus, the Court is unconvinced with their allegation that Jose acquired the contested lot from Victor or from Roman.

Sixth, Exhibit "N" (Joint Affidavit of Arlin Mitra, Nardito Tinay, Lucio Abad and Carlos Legazpi),⁵⁰ executed by the boundary lot owners and neighbors of spouses Vallena, affirmed that they bought their respective lots from Victor. They verified that after the sale, Victor's remaining area was 1,177 square meters, covered by Tax Declaration 4983. They confirmed that Tamayo indeed conducted an ocular inspection on May 20, 1995, and he measured all the lots bought from Victor.

Seventh, Exhibits "M"- "M3" (real estate tax receipts)⁵¹ paid by Anita prove that the Montevillas had been paying the real property taxes on the 1,177 square-meter lot. While payment of realty tax is not conclusive proof of ownership or possession, it is a good indication of ownership or possession because no one would be willing to spend for something that he/she does not own or possess.

Lastly, Exhibits "A," "D" and "D-2" (Declarations of Real Property)⁵² further support the Montevillas claim that their father owned the 1,177 square-meter lot, of which the contested lot is part of.

In civil case, the quantum of evidence required is preponderance of evidence. In *Aba v. Attys. De Guzman, Jr.*,⁵³ the Court defined and discussed this concept.

Preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other. It means evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto. Under Section 1 of Rule 133, in determining whether or not there is preponderance of evidence, the court may consider the following: (a) all the facts and circumstances of the case; (b) the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the

⁴⁹ Id. at 59-62.

⁵⁰ Id. at 72-74.

⁵¹ Id. at 68-71.

⁵² Id. at 49, 53-54.

⁵³ 678 Phil. 588, 601 (2011).

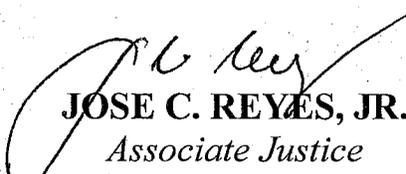
probability or improbability of their testimony; (c) the witnesses' interest or want of interest, and also their personal credibility so far as the same may ultimately appear in the trial; and (d) the number of witnesses, although it does not mean that preponderance is necessarily with the greater number. (Citation omitted)

Here, the Montevillas presented 15 exhibits,⁵⁴ while the Vallenas submitted nine exhibits.⁵⁵ More than just having a greater number of exhibits, the Montevillas sufficiently prove their claim that they are in prior possession of the contested lot because their parents owned it and possessed it. The affidavits of two of the Montevilla heirs, the affidavits of the boundary lot owners, Tamayo's sketch plan, certification, and affidavit all prove that Victor did not sell the contested lot to Jose and remained with the Montevillas. These pieces of evidence also support the allegation that spouses Vallena's occupation was by mere tolerance of the Montevillas. It is not just the quantity, but foremost the quality of evidence that determines who has preponderance of evidence. Thus, the Montevillas have satisfactorily substantiated their version in this long-time unresolved land dispute.

On the other hand, spouses Vallena's main defense that Jose bought the contested lot partly from Victor and partly from Roman was unproven due to non-presentation of the original documents of sale. Since their most important piece of evidence was struck down, there is nothing left for their defense. Therefore, they have no right of possession over the 40-square meter contested lot.

WHEREFORE, premises considered, the petition is **GRANTED**. The Court of Appeals Decision dated March 16, 2017 and the Resolution dated September 7, 2017 in CA-G.R. SP No. 143742 are **REVERSED**. The Regional Trial Court Decision dated July 7, 2015 in Civil Case No. 7001 is **REINSTATED**.

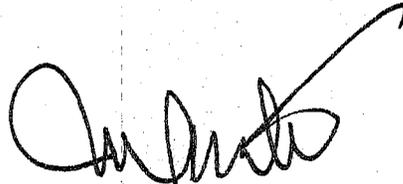
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

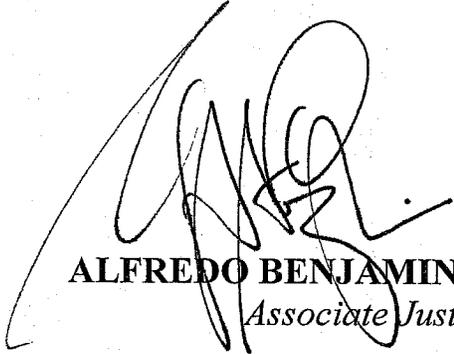
⁵⁴ Records, pp. 36-42, 49-74, 82-86.

⁵⁵ Id. at 13-17, 90-96,

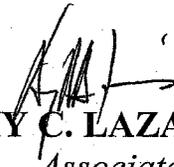
WE CONCUR:



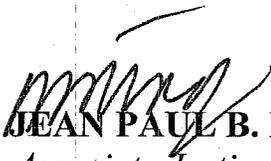
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



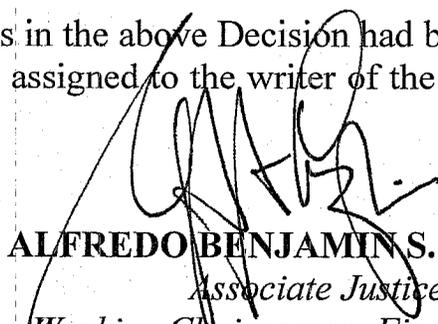
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

ATTESTATION

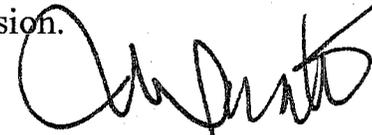
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Working Chairperson, First Division

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.

**DIOSDADO M. PERALTA***Chief Justice*