

Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

RUBEN DE GUZMAN y LAZANO, G.R. No. 248907  
Petitioner,

Present:

- versus -

GESMUNDO, C.J.,  
Chairperson,  
CAGUIOA,  
CARANDANG,  
ZALAMEDA, and  
GAERLAN, JJ.

Promulgated:

PEOPLE OF THE PHILIPPINES,  
Respondent.

APR 26 2021

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DECISION

CARANDANG, J.:

Before this Court is a Petition for Review on *Certiorari*<sup>1</sup> filed by petitioner Ruben De Guzman y Lazano (Ruben) assailing the Decision<sup>2</sup> dated December 14, 2018 and the Resolution<sup>3</sup> dated July 8, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 40111. The CA affirmed with modification the Judgment<sup>4</sup> dated February 10, 2017 and the Resolution<sup>5</sup> dated May 11, 2017 of the Regional Trial Court (RTC) of Tuguegarao City, Branch 1 in Criminal Case No. 14203.

<sup>1</sup> Rollo, pp. 9-35.

<sup>2</sup> Penned by Associate Justice Japar B. Dimaampao, with the concurrence of Associate Justices Manuel M. Barrios and Maria Filomena D. Singh; id. at 42-50.

<sup>3</sup> Id. at 58-59.

<sup>4</sup> Penned by Presiding Judge Raymond Reynold R. Lauigan; CA rollo, pp. 46-52.

<sup>5</sup> Id. at 44-45.

### Antecedents

Ruben was charged with violation of Presidential Decree No. (PD) 1866, as amended by Republic Act No. (R.A.) 8294 in an Information<sup>6</sup> dated April 25, 2011 that provides:

That on or about December 25, 2010 in the municipality of Enrile, province of Cagayan and within the jurisdiction of this Honorable Court, the said accused RUBEN DE GUZMAN Y LAZANO without authority, did, then and there willfully, unlawfully, and feloniously have in his possession and under his control and custody an unlicensed firearm particularly described as a M16 Baby Armalite, Caliber 5.56mm, with magazine and seventeen (17) rounds of live ammunitions bearing Serial Number 418831 which the herein accused possess and carried outside of his residence without first securing the necessary license and/or permit from lawful government agency.

Contrary to law.<sup>7</sup>

Ruben was arraigned on September 21, 2011 and pleaded not guilty.<sup>8</sup> During the pre-trial on April 25, 2012, the parties admitted the following facts:

1. The identity of the accused Ruben de Guzman y Lazo;
2. The presence of the accused in Enrile, Cagayan on December 25, 2010;
3. That the accused was subjected to Inquest Proceedings;
4. That the accused requested for the conduct of a regular preliminary investigation and waived his right under Article 125 of the Revised Penal Code;
5. That the accused did not file his counter-affidavit;
6. That Roman Jarquio is the brother of Dionisio Jarquio;
7. That Dionisio Jarquio is a former barangay captain of Roma, Enrile, Cagayan;
8. That Dionisio Jarquio was defeated during the 2010 barangay election by the new barangay captain Gener Lozano;
9. That the accused is with Jose Jarquio on December 25, 2010 at around 7:00 o'clock in the evening;
10. That Jose Jarquio is a barangay tanod of Roma, Enrile, Cagayan;
11. That Nicanor Anog resides in a place far from the place of the residence of ex-barangay captain Dionisio Jarquio;
12. That Dionisio Jarquio is the owner of a .45 caliber pistol;
13. That Ruben de Guzman was brought to the hospital for medical treatment;
14. That the subject armalite was surrendered by Dioniso Jarquio and Ramil Pajar to the COMPAC Roma through PO1 Callueng in the evening of December 25, 2010;
15. The report of the incident, the entry of the same in the police blotter and that the subject firearm is not licensed

<sup>6</sup> Records, pp. 1-2.

<sup>7</sup> Id. at 1.

<sup>8</sup> CA rollo, p. 44.

and likewise the turned over of the said firearm to Pros. Frederick Aquino.<sup>9</sup>

The testimonies of PO3 Jeffrey Palattao, SPO2 George Calimag, PO1 Rodrigo Sarmiento, and Prosecutor Frederick Aquino were dispensed in consideration of the admissions made, specifically No. 15 thereof.<sup>10</sup>

The prosecution presented the following as its witnesses: (1) Dionisio Jarquio (Dionisio); (2) Ramil Pajar (Ramil); (3) SPO3 George Calimag (SPO3 Calimag); and (4) PO1 Manolito Callueng (PO1 Callueng).<sup>11</sup> According to respondent, on December 25, 2010, Dionisio was watching television at home when his son Dionisio Jones Jarquio (Jones) told him that Ruben and Jose Jarquio (Jose) threatened to shoot him. Dionisio responded that they might have been joking. When Ruben and Jose passed by, Dionisio went after them. At the highway, he confronted Ruben regarding the threat made to Jones. Ruben said that he was just joking. Dionisio then noticed a baby armalite hanging on Ruben's body so he tried to get it. Dionisio and Ruben grappled over the firearm. Meanwhile, Ramil, upon the request of Jones, proceeded to the highway and saw Dionisio and Ruben grappling for the firearm. He positioned himself behind Ruben and was able to take the firearm. Ruben ran away. Dionisio tried to chase him but to no avail.<sup>12</sup>

Dionisio and Ramil proceeded to the *pulisya ti umili* (PTU) in Roma and turned over the firearm to PO1 Callueng.<sup>13</sup> PO1 Callueng turned over the firearm with magazine and live ammunitions to a certain SPO3 Asuncion at the PTU Roma.<sup>14</sup> SPO3 Calimag marked the firearm in the presence of Dionisio and Ramil. He brought the items to the Enrile Police Station and recorded it in the police blotter.<sup>15</sup> When Ruben arrived in the evening, he was arrested.<sup>16</sup>

The parties admitted the following: (1) that SPO4 Marcelo Baccay (SPO4 Baccay) is a member of the Philippine National Police (PNP) Enrile Police Station on December 25, 2010; (2) that he led the team purposely to respond to the incident that transpired at Barangay (Brgy.) Roma, Enrile, Cagayan in the evening of December 25, 2010; (3) he will testify as to the fact that transpired during the incident; and (4) that he will identify Ruben and the Certification of Police Blotter.<sup>17</sup> SPO4 Baccay identified Ruben, the firearm, the ammunitions, and the Affidavit of Arrest when he appeared before the court.<sup>18</sup>

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<sup>9</sup> Records, pp. 90-91.

<sup>10</sup> Id. at 88.

<sup>11</sup> CA *rollo*, p. 47.

<sup>12</sup> *Rollo*, p. 44.

<sup>13</sup> Id.

<sup>14</sup> CA *rollo*, p. 48.

<sup>15</sup> Id. at 47.

<sup>16</sup> TSN dated July 18, 2012, p. 11.

<sup>17</sup> Records, p. 121.

<sup>18</sup> CA *rollo*, p. 47.

Ruben testified for his defense along with the following: (1) Silverio Severo (Silverio); (2) Felisa Zingapan (Felisa); and (3) Dr. Ramby Danao (Dr. Danao).<sup>19</sup> Ruben claimed that on December 25, 2010, he was roving as the Chief Brgy. Tanod of Roma, Norte, Enrile, Cagayan together with Brgy. Tanod Jose. They were on their way home when Ruben saw Dionisio talking to Silverio. After they passed by, Dionisio poked a caliber .45 gun at him and threatened to kill him. George Jarquio (George) and Roman Jarquio (Roman) then proceeded to maul and strike him with a long firearm. Dionisio only ordered them to stop when he saw blood oozing down Ruben's face. Brgy. Captain Gener Lozano (Brgy. Cpt. Lozano) brought Ruben to the hospital. Thereafter, Ruben went to the police station to report the incident. However, he was arrested for illegal possession of a firearm that was surrendered by Dionisio.<sup>20</sup> Ruben claimed that Dionisio held a grudge against him because he was a supporter of Brgy. Cpt. Lozano who defeated Dionisio in the barangay elections.<sup>21</sup>

Silverio corroborated Ruben's testimony and said that on December 25, 2010, he was at home when he heard somebody screaming. He went out and saw Dionisio armed with a caliber .45 gun. Ruben was being held by George<sup>22</sup> and was oozing with blood.<sup>23</sup> Dionisio told George to release Ruben because he might die.<sup>24</sup> Once he was released, Ruben ran away.<sup>25</sup> Felisa also testified that she saw Dionisio with the firearm subject of this case hanging on his shoulders on the day of the incident. Dionisio usually had the firearm when he was still the barangay captain. Later on, Ruben arrived while she was cooking. His face was oozing with blood.<sup>26</sup>

Dr. Danao testified that he examined Ruben at 9:00 p.m.<sup>27</sup> on December 25, 2010 in the Emergency Room of the Cagayan Valley Medical Center. He found a two-centimeter lacerated wound on the right eyebrow of Ruben.<sup>28</sup> Dr. Danao issued a Medico-Legal Certificate<sup>29</sup> stating his findings.

### **Ruling of the Regional Trial Court**

On February 10, 2017, the RTC rendered its Judgment<sup>30</sup> as follows:

**WHEREFORE, the Court finds the accused RUBEN DE GUZMAN y LAZANO GUILTY BEYOND REASONABLE DOUBT of the CRIME OF VIOLATION OF PRESIDENTIAL DECREE 1866 as amended by REPUBLIC ACT NO. 8294, and, applying**

<sup>19</sup> Id. at 48-49.

<sup>20</sup> *Rollo*, pp. 44-45.

<sup>21</sup> *CA rollo*, p. 48.

<sup>22</sup> Id.

<sup>23</sup> TSN dated April 1, 2014, p. 8.

<sup>24</sup> *CA rollo*, p. 48.

<sup>25</sup> TSN dated April 1, 2014, p. 8.

<sup>26</sup> *CA rollo*, p. 48.

<sup>27</sup> TSN dated May 31, 2016, p. 4.

<sup>28</sup> *CA rollo*, p. 49.

<sup>29</sup> Records, p. 153.

<sup>30</sup> *CA rollo*, pp. 46-52.

**the Indeterminate Sentence Law, hereby sentences him to suffer a penalty of imprisonment of Six (6) Years and One (1) day to Eight (8) Years and to pay a fine of P30,000.00 Pesos.**

**The M16 Baby Armalite with magazine and the 17 rounds of live ammunitions presented before the Court are hereby forfeited and confiscated in favor of the government and the Branch Clerk of Court is hereby directed to immediately deliver the said items to the PNP Firearms and Explosives Office, Camp Crame, Quezon City through the Office of the PNP Regional Director, PNP Regional Office No. 2, Camp Adduru, Tuguegarao City for proper disposition and for the latter office to make a report to this Court within 30 days from receipt thereof.**

**SO ORDERED.**<sup>31</sup> (Emphasis and italics in the original.)

The RTC gave weight to the testimonies of Dionisio and Ramil. Dionisio testified that when he saw Ruben with the firearm, he was compelled to take it. Ruben and Dionisio grappled for the firearm. Dionisio's testimony was corroborated by Ramil who testified that he grabbed the firearm from Dionisio. He had to pull it upward because it had a sling and was hanging on Ruben's body. This shows that Ruben had full and complete possession and control over the firearm.<sup>32</sup>

Both Dionisio and Ramil identified Ruben and the firearm in court. Dionisio and Ramil did not have any motive to lie. They only saw Ruben with a firearm by chance. In addition, the incident was recorded in the police blotter. Ramil and Dionisio immediately surrendered the firearm to PO1 Callueng at the PTU Roma.<sup>33</sup>

The RTC noted that Ruben never categorically denied that he owns the firearm and that it was taken from him during testimony.<sup>34</sup> When he was at the Enrile Police Station, he did not confront Dionisio and Ramil. In addition, he did not file any case against them or execute a counter-affidavit. Ruben did not present any evidence to prove his claim that Dionisio had ill feelings against him because of his support for the candidate who opposed and won against the latter in the election for barangay captain.<sup>35</sup>

Silverio's testimony is bereft of any claim that Ruben was not in possession of a firearm on the day of the incident. With respect to Felisa, her claim that she saw Dionisio in possession of the loose firearm subject matter of the case was contradicted by Ruben and Silverio who said that Dionisio

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<sup>31</sup> Id. at 52.

<sup>32</sup> Id. at 50.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id. at 51.

was actually carrying a .45 caliber pistol. Hence, the RTC did not give credence to Felisa's testimony.<sup>36</sup>

No evidence was presented to show that Ruben was a licensed firearm holder or that he had the permit to carry the firearm outside of his residence. The firearm itself is not licensed and registered according to the PNP Firearms and Explosives Office. Accordingly, the RTC found sufficient evidence to convict Ruben of the crime charged against him.<sup>37</sup>

Ruben filed a motion for reconsideration. When the RTC denied it, he appealed to the CA.<sup>38</sup>

### Ruling of the Court of Appeals

The CA affirmed the ruling of the RTC but modified it in its December 14, 2018 Decision.<sup>39</sup>

**WHEREFORE**, the judgment of conviction of Regional Trial Court, Second Judicial Region, Tuguegarao City, Cagayan, Branch 1, in Criminal Case No. 14203, is hereby **AFFIRMED with MODIFICATION** in that accused-appellant Ruben De Guzman y Lazano is sentenced to suffer a penalty of imprisonment of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to seven (7) years of *prision mayor*, as maximum.

**SO ORDERED.**<sup>40</sup> (Emphasis supplied.)

The CA held that all the elements for violation of PD 1866, as amended, were proven in this case. *First*, the prosecution's witnesses testified that they saw that Ruben had a baby armalite hanging on his body. The firearm was identified in court. *Second*, Police Chief Inspector Rodrigo Benedicto Sarmiento of the Firearms and Explosives Division, Camp Crame, Quezon City certified that Ruben was not registered or licensed to hold any firearm.<sup>41</sup> With respect to Ruben's *animus possidendi*, it was established by his act of threatening Jones and carrying a firearm afterwards without a license. He ran away when the firearm was taken from him. The CA found no reason to disturb the assessment made by the RTC as to the credibility of the witnesses presented and the weight that should be given to their respective testimonies.<sup>42</sup>

Nonetheless, the CA modified the penalty and applied Act No. 4103, or the Indeterminate Sentence Law, because the penalties under PD 1866 were taken from the Revised Penal Code. The penalty for illegal possession of a high-powered firearm is *prision mayor* in its minimum period. The penalty

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<sup>36</sup> Id.  
<sup>37</sup> Id. at 51-52.  
<sup>38</sup> *Rollo*, p. 45.  
<sup>39</sup> Id. at 42-50.  
<sup>40</sup> Id. at 49.  
<sup>41</sup> Id. at 47.  
<sup>42</sup> Id. at 48.

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next lower in degree is *prision correccional* in its maximum period, or four (4) years, two (2) months and one (1) day to six (6) years. Since there is no aggravating or mitigating circumstance, the maximum penalty should be taken from the medium period of *prision mayor* minimum, or six (6) years, eight (8) months, and one (1) day to seven (7) years and four (4) months. Thus, the indeterminate penalty of imprisonment of Ruben should be four (4) years, two (2) months, and one (1) day of *prision correccional* as minimum to seven (7) years of *prision mayor* as maximum.<sup>43</sup>

Ruben filed a motion for reconsideration. After the CA denied it, he filed a motion for extension of time to file petition for review on *certiorari*<sup>44</sup> and petition for review on *certiorari* before this Court.<sup>45</sup>

*First*, Ruben assailed the testimonies of the prosecution's witnesses. None of them testified that they saw him holding the firearm before he and Dionisio grappled for it. They did not explain this lapse.<sup>46</sup> They also failed to mention that George, Roman, and Dionisio's other relatives were present during the incident.<sup>47</sup> Moreover, it is incredulous that Ramil was easily able to remove the firearm from two adult men without being knocked over,<sup>48</sup> and that Dionisio did not sustain any injury from the altercation. In contrast, Ruben's injury proves that he was at the receiving end of a one-sided fight.<sup>49</sup> Ramil said that he never saw Ruben with a firearm or knew that he owned one prior to this incident.<sup>50</sup>

Ruben argued that the CA should have given weight instead to the testimony of Silverio who is not related to Ruben, unlike Ramil who is Dionisio's first cousin. Silverio said that he did not see Ruben with a gun.<sup>51</sup>

*Second*, Ruben questioned whether the firearm that was supposedly taken from him was the same firearm that was presented in court. The firearm was not marked by Dionisio or Ramil. PO1 Callueng, who received the firearm from Dionisio, also failed to place markings on it. He turned it over to a certain SPO3 Asuncion who was not presented in court.<sup>52</sup>

Dionisio, Ramil, and PO1 Callueng were also inconsistent regarding the description of the firearm. Dionisio said that the handle and the barrel had a *batik-batik* design while Ramil said that the *batik-batik* design was painted on the butt, handle, and barrel of the firearm. As for PO1 Callueng, he described the firearm as a "camouflage M16 rifle with one magazine."<sup>53</sup>

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<sup>43</sup> Id. at 49.  
<sup>44</sup> Id. at 3-4  
<sup>45</sup> Id. at 9-35.  
<sup>46</sup> Id. at 18-20.  
<sup>47</sup> Id. at 23.  
<sup>48</sup> Id. at 22.  
<sup>49</sup> Id. at 23.  
<sup>50</sup> Id. at 20.  
<sup>51</sup> Id. at 20-22.  
<sup>52</sup> Id. at 25.  
<sup>53</sup> Id. at 25-26.



*Third*, Ruben argued that *animus possidendi* was not established in this case. Jones did not testify to prove that Ruben threatened him. Even if he did, Ruben did not threaten him specifically with the firearm.<sup>54</sup> Also, Ruben reiterated that none of the prosecution's witnesses saw him holding the firearm before he and Dionisio grappled for it. The same witnesses also failed to state that they were in danger simply because Ruben was carrying a firearm.<sup>55</sup> Moreover, Dionisio and Ramil had no right or moral obligation to take away the firearm of any person who is peacefully possessing it.<sup>56</sup>

Respondent filed a Comment.<sup>57</sup> Respondent pointed out that the findings of the trial court on the credibility of witnesses should be respected, especially when it is affirmed by the CA. The findings of the RTC and the CA in this case undeniably established that Ruben committed the crime charged.<sup>58</sup> Ruben failed to show that respondent's witnesses were motivated by ill-will in testifying against him. Further, Ruben's arguments are full of denials. A denial, if unsubstantiated by clear and convincing evidence, is negative and self-serving evidence, which deserves no weight in law and cannot be given greater evidentiary value over the testimonies of credible witnesses who testify on affirmative matters. As such, respondent prayed for the dismissal of the petition.<sup>59</sup>

### Issue

The issue in this case is whether the CA erred in affirming the conviction of Ruben for violating PD 1866.

### Ruling of the Court

We grant the petition.

The factual findings of the RTC, especially when affirmed by the CA, are generally respected by this Court. However, when some facts or circumstances of weight were overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case, then the Court must review such findings.<sup>60</sup> Such is the case here.

The unauthorized possession of an M16 baby armalite with caliber 5.56mm and ammunition is penalized under paragraph 2 of PD 1866, as amended by R.A. 8294, which provides:

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<sup>54</sup> Id. at 26-27

<sup>55</sup> Id. at 31-32.

<sup>56</sup> Id. at 32.

<sup>57</sup> Id. at 79-92.

<sup>58</sup> Id. at 82-85.

<sup>59</sup> Id. at 85-86.

<sup>60</sup> See *People v. Manzano*, 827 Phil. 113, 126 (2018).



Section 1. *Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition.* – x x x

The penalty of *prision mayor* in its minimum period and a fine of Thirty thousand pesos (P30,000) shall be imposed if the firearm is classified as high powered firearm which includes those with bores bigger in diameter than .38 caliber and 9 millimeter such as caliber .40, .41, .44, .45 and also lesser calibered firearms but considered powerful such as caliber .357 and caliber .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three: *Provided, however*, That no other crime was committed by the person arrested. x x x

The essential elements of the crime of illegal possession of firearms and ammunitions under the foregoing provision are: (1) the existence of subject firearm; and (2) the fact that the accused who possessed or owned the same does not have the corresponding license for it.<sup>61</sup> There is no question as to the presence of the first element, namely the existence of the M16 baby armalite with magazine and 17 rounds of live ammunition. The M16 baby armalite with serial no. 418831 was offered in evidence as Exhibit “J” while its magazine was offered as Exhibit “K.” The 17 live ammunitions were offered in evidence as Exhibit “L.”<sup>62</sup> The Clerk of Court of the RTC acknowledged receipt of these items on September 26, 2012.<sup>63</sup>

The same cannot be said for the second element which requires two factors: (1) the accused possessed or owned the firearm; and (2) he or she does not have the corresponding license for it. Possession covers not only actual physical possession but also constructive possession or the subjection of the thing to one's control and management. In addition, possession must be coupled with *animus possidendi* or intent to possess on the part of the accused. *Animus possidendi* is a state of mind, the presence or determination of which is largely dependent on attendant events in each case and may be inferred from the prior or contemporaneous acts of the accused, as well as the surrounding circumstances.<sup>64</sup>

The RTC and the CA found that the evidence presented by respondent sufficiently proved that Ruben was in possession of the M16 baby armalite with magazine and live ammunition, and that he has no corresponding license to possess it. While it was admitted by the parties that the firearm is unlicensed, We are not convinced that Ruben was in possession of the subject firearm. Ruben's account of what transpired on December 25, 2010 is more credible than that of respondent's. Ruben was on his way home when Dionisio, George, and Roman attacked him. Silverio witnessed this incident. Felisa likewise said that Ruben came home with blood on his face. Neither of

<sup>61</sup> *Jacaban v. People*, 756 Phil. 523, 531 (2015).

<sup>62</sup> Records, p. 145.

<sup>63</sup> Id. at 117.

<sup>64</sup> Id. at 145.

them saw Ruben with a firearm on the day of the incident. Dr. Danao confirmed that he examined Ruben and found a two-centimeter lacerated wound on his right eyebrow. The parties even admitted that Ruben sought medical treatment on December 25, 2010.

Notably, Dionisio is the godfather of Felisa's child,<sup>65</sup> but both Felisa and Silverio do not appear to be related to Ruben. They are disinterested parties who simply recounted what they saw on December 25, 2010. To Our mind, Ruben was able to establish that he was not carrying a firearm with magazine and live ammunition. In fact, he was mauled on his way home. The courts *a quo* therefore erred in relying on the testimonies of Dionisio and Ramil. PO1 Callueng and SPO3 Calimag's testimonies cannot be given weight as well because they merely relied on what was reported to them and arrested Ruben without verifying if it is true.

All told, respondent failed to prove the guilt of Ruben for the crime charged against him. Consequently, Ruben must be acquitted.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated December 14, 2018 and the Resolution dated July 8, 2019 of the Court of Appeals in CA-G.R. CR No. 40111 are **REVERSED** and **SET ASIDE**. Petitioner Ruben De Guzman y Lazano is **ACQUITTED** of the crime charged against him.

**SO ORDERED.**

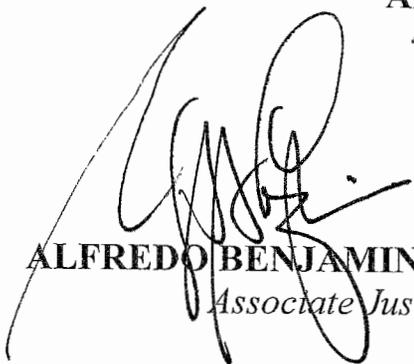
  
ROSMARIE D. CARANDANG  
Associate Justice

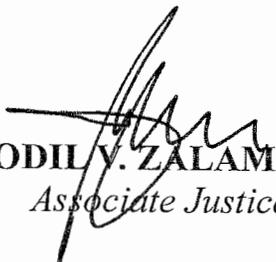
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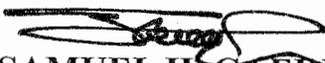
<sup>65</sup> TSN dated October 28, 2014, p. 5.

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

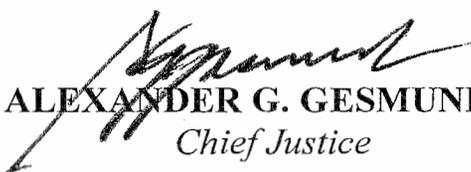
  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*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.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*