



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

FIRST DIVISION

FRANCISCO R. HERNANDEZ,
Petitioner,

G.R. No. 248416

Present:

-versus-

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

SEALION MARITIME
SERVICES, CORP., OIL
MARKETING CORP., AND
NELLY B. MARISCOTES,
Respondents.

Promulgated:

JUL 14 2021

X ----- X

DECISION

CARANDANG, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated April 17, 2019 and Resolution³ dated July 22, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 157973. The CA affirmed the Decision⁴ dated April 30, 2018 of the National Labor Relations Commission (NLRC), deleting the award of total permanent disability compensation in favor of petitioner Francisco R. Hernandez (Hernandez).

¹ Rollo, pp. 8-49.

² Penned by Associate Justice Remedios A. Salazar-Fernando, with the concurrence of Associate Justices Marie Christine Azcarraga-Jacob and Henri Jean Paul B. Inting (now a Member of this Court); id. at 55-75.

³ Penned by Associate Justice Remedios A. Salazar-Fernando with the concurrence of Associate Justices Marie Christine Azcarraga-Jacob and Geraldine C. Fiel-Macaraig; id. at 77-79.

⁴ Penned by Presiding Commissioner Grace E. Maniquiz-Tan with the concurrence of Commissioners Dolores M. Peralta-Beley and Mercedes R. Posada-Lacap; id. at 130-154.

Facts of the Case

Hernandez was repeatedly hired as respondent Oil Marketing Corp.'s (OMC) seaman from December 2004 to October 2015. On July 3, 2014, Hernandez was hired to work as OMC's seaman for six months on board the latter's towing vessel, "m-104". Hernandez alleged that it was OMC's practice to have him sign another contract with a longer period of employment and to do the work of a Bosun. Thus, upon his arrival at the Persian Gulf on July 4, 2014, Hernandez was made to sign another contract for a period of one year.⁵

Two months after the expiration of his Philippine Overseas Employment Administration – Standard Employment Contract (POEA-SEC), or in March 2015, Hernandez experienced severe upper abdominal pain, loss of appetite, nausea, and fever. Although the ship's medical officer prescribed him some medication, it did not help. Hernandez was thus brought to Shifa Al Jazeera Medical Centre in Manama, Bahrain. The attending physician declared him to be suffering from ulcer and stomach infection and was given a week's worth of medication. Hernandez claimed that he still felt intermittent abdominal pains after one week but opted to self-medicate using antacids. In October 2015, his abdominal pain grew worse. He was brought to Bahrain Public Hospital and was diagnosed with *acute pancreatitis with pseudocyst* and was confined there from October 5-14, 2015.⁶

Hernandez averred that he was discharged from Bahrain Public Hospital for repatriation. He was promised a medical escort upon his arrival in the Philippines. However, there was no such medical escort nor was there a representative from respondent Sealion Maritime Services Corp. (Sealion) upon his return on October 21, 2015. Since it was only Hernandez's loved ones who were present, he went to his home in Batangas.⁷

The next day (*i.e.*, October 22, 2015), Hernandez was brought to Golden Gate General Hospital (Golden Gate) in Batangas City. The doctor prescribed medicines to treat tuberculosis because Hernandez was already coughing blood. Hernandez's brother called Sealion on October 23, 2015 to ask for assistance. Sealion simply instructed them to collate the receipts and submit it to Sealion for reimbursement.⁸

Hernandez was rushed to and confined in Golden Gate from October 30, 2015 to November 13, 2015. During his confinement, Hernandez was diagnosed with *splenic/hepatic abscess*, *acute pancreatitis*, and *pulmonary tuberculosis* (PTB) and underwent surgery. On October 30, 2015, Hernandez's brother called Sealion again to inform them of Hernandez's impending operation and to reiterate their request for assistance. Again, Sealion merely

⁵ Id. at 56-57.

⁶ Id. at 58 and 330-331.

⁷ Id. at 58.

⁸ Id.

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instructed them to collate receipts similar to what it told Hernandez's brother on October, 23, 2015.⁹

According to Hernandez, Sealion insisted that he be deployed even when Hernandez was still recuperating from his surgery. Even if the X-ray conducted during his pre-employment medical examination (PEME) showed that he still had PTB, Sealion declared him fit to work but never deployed him. Since Hernandez felt that he was still ill, he sought the opinion of an independent doctor, Dr. Marinela M. Cailipan (Dr. Cailipan).¹⁰ In a Clinical Summary¹¹ dated August 16, 2017, Dr. Cailipan diagnosed Hernandez with a Grade 1 disability. The contents of the Clinical Summary read:

This is the case of 38 year old, Male, seaman, from Batangas who came in for evaluation of medical condition that started as epigastric pain.

Present Condition started more than 2 years PTC as abdominal pain at the epigastric area, squeezing in character radiating to the left upper quadrant associated with constipation, anorexia and low grade fever. He was given hyoscine tablet by the ship doctor which provided temporary relief. However, signs and symptoms recurred and professed and so on Oct 2015, he was admitted at the Ministry of Health in Bahrain, where laboratory exams revealed elevated amylase level and white cell count. He was diagnosed to have pancreatitis and pseudocyst and was advised to undergo exploratory laparotomy, however, he refused and wanted to undergo the operation in the Philippines. He was repatriated to Manila and was admitted at Golden Gate General Hospital in Batangas City on October 30, 2015. He underwent CT scan of the abdomen. Diagnosis was abscess, splenic area and hepatic area; S/P acute pancreatitis; PTB. Surgery done was Exlap Evacuation of Splenic abscess, debridement drain. At present (August 16, 2017), patient still has on and off abdominal pain and weight loss even after 2 years of illness.

Based on the clinical history and laboratory exams, diagnosis of the patient was S/P Acute pancreatitis; S/P Explor Lap for splenic/hepatic abscess. Acute pancreatitis is inflammation of the pancreas usually due to cholelithiasis or alcohol. Other causes include infection, metabolic vasculitis, penetrating peptic ulcer. Symptoms vary from mild abdominal pain to shock. Laboratory exams usually show elevated amylase and leucocytosis (*sic*) and CT scan shows edematous pancreas. Complications are pancreatic pseudocyst, pancreatic phlegmon, pancreatic abscess and pancreatic ascites and pleural effusions. Treatment is medical management with antibiotics, however, in severe cases, laparotomy with removal of necrotic material and drainage is the treatment of choice. Chronic pancreatitis may

⁹ Id. at 58-59.

¹⁰ Id. at 59.

¹¹ Id. at 217-218.

occur as chronic damage to the pancreas with pain, malabsorption and weight loss. In this patient, he is still experiencing on and off pain and weight loss which could be signs of chronic pancreatitis. Treatment is controlling pain and malabsorption. Intermittent attacks are treated like acute pancreatitis. Surgery may control pain if there is ductal stricture. The work related stresses as a seaman, like heat, lack of ventilation, overfatigue, working long hours and lifting heavy objects could have triggered his acute attack of Pancreatitis which was severe and complicated that necessitated surgery. He could be exposed again to these work related stresses as a seaman which could trigger another acute pancreatitis that could be life threatening because of complications if not treated immediately while on board ship. Hence, he is no longer fit for seaman duty. He needs frequent check ups with his gastroenterologist to monitor his pancreas and control his main and malabsorption that contribute to his weight loss, His disability rating is Grade 1 – severe residuals of impairment of intra-abdominal organs which requires regular aid and attendance that will enable worker to seek gainful employment.¹²

Armed with the Clinical Summary, Hernandez resorted to voluntary conciliation *via* the Single Entry Approach. When voluntary conciliation failed, Hernandez filed a complaint for total permanent disability compensation with the Labor Arbiter (LA).¹³

Ruling of the Labor Arbiter

In its Decision¹⁴ dated January 25, 2018, the LA granted Hernandez's complaint, *viz.*:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents Sealion Maritime Services Corporation and Oil Marketing Corporation, jointly and severally liable to complainant in the following amounts:

1. Disability benefits in the amount of US\$60,000.00 or its peso equivalent at the time of payment;
2. Sickwage allowance in the amount of US\$1,200.00 or its peso equivalent;
3. Medical expenses in the amount of ₱234,540.19;
4. Collective sum of ₱30,000.00 as moral and exemplary damages[; and]
5. Attorney's fees in the amount of US\$6,120.00 and ₱23,454.02, respectively.

All other claims are **DISMISSED** for lack of basis.

SO ORDERED.¹⁵ (Emphasis in the original)

¹² Id.

¹³ Id. at 329.

¹⁴ Penned by Labor Arbiter Marita V. Padolina; id. at 329-353.

¹⁵ Id. at 353.

According to the LA, Hernandez's failure to report to Sealion within three days from his repatriation was properly justified because Sealion and OMC did not make good their promise to provide a medical escort upon Hernandez's arrival. It noted that the exception to the 3-day mandatory requirement applies since Hernandez was physically incapacitated to report to Sealion within the prescribed period from the time of his arrival.¹⁶

The LA classified Hernandez's illness as work-related because (1) Hernandez's illness occurred while he was on board BBT-104; (2) Hernandez was exposed to dangerous chemicals on board the vessel; (3) Hernandez was exposed to stresses caused by heat, lack of ventilation, over fatigue, and long hours of work; (4) Hernandez's diet consisted mainly of processed food, causing his *pancreatitis*; and (5) respondents failed to overcome the presumption that illnesses not listed under Section 32 of the POEA-SEC are work-related.¹⁷

Giving credence to Dr. Cailipan's Clinical Summary, the LA awarded Hernandez total permanent disability compensation.¹⁸ Thus, respondents filed an appeal¹⁹ with the NLRC.

Ruling of the National Labor Relations Commission

In its Decision²⁰ dated April 30, 2018, the NLRC reversed the LA by deleting Hernandez's awards of total permanent disability benefits and moral and exemplary damages.²¹

The NLRC initially explained that Hernandez could not be faulted for failing to comply strictly with the 3-day reportorial requirement under the POEA-SEC. The phone call made by Hernandez's brother informing respondents about Hernandez's condition constituted substantial compliance with the said requirement. When Hernandez's brother called Sealion two days after Hernandez's repatriation, Sealion or OMC should have ordered Hernandez to go to the company-designated physician for a physical examination.²²

Despite Hernandez's substantial compliance with the reportorial requirement, the NLRC held that Hernandez failed to prove that his illness was work-related. Hernandez's fit-to-work certification was not issued to escape liability. Moreover, Hernandez was not redeployed because he failed to sign his PEME and comply with other requirements, contrary to

¹⁶ Id. at 341-344.

¹⁷ Id. at 345-352.

¹⁸ Id. at 352-353.

¹⁹ Id. at 355-374.

²⁰ Supra note 4.

²¹ *Rollo*, p. 153.

²² Id. at 143-145.

Hernandez's claim that he was not redeployed because he was unfit to return to work.²³

The NLRC found no probative value in Dr. Cailipan's Clinical Summary because: (1) it was made after one consultation between Dr. Cailipan and Hernandez; (2) it did not state the tests conducted by Dr. Cailipan to prove the allegation that Hernandez is not fit to work – it appearing that Dr. Cailipan only conducted a physical examination of Hernandez; (3) it was only based on the clinical history and tests conducted on Hernandez in October 2015 (*i.e.*, when Hernandez was at Golden Gate); and (4) it was made 22 months after Hernandez's repatriation. Still, the NLRC upheld the award of sickness allowance and medical reimbursement since it was proven that: (1) Hernandez became ill while on board BBT-104; (2) Hernandez was medically repatriated; and (3) Hernandez was not able to work for more than 120 days.²⁴

The NLRC deleted the awards of moral and exemplary damages since respondents offered to reimburse Hernandez's medical expenses, thus, disproving bad faith on the part of the respondents.²⁵

This prompted Hernandez to file a Petition for *Certiorari*²⁶ with the CA.

Ruling of the Court of Appeals

In its Decision²⁷ dated April 17, 2019, the CA affirmed the NLRC's finding *in toto*. It held that Hernandez had the burden of proof in establishing that his illness is work-related. Hernandez failed to do so since the CA also found Dr. Calipan's Clinical Summary lacking any probative value.²⁸

Hernandez's allegation that he still had PTB was belied by: (1) the lack of any finding of PTB in the Clinical Summary; and (2) a pulmonary evaluation dated May 17, 2016 declaring him "cleared from [a] pulmonary standpoint. Patient is non-infectious."²⁹ The appellate court held that mere failure to work within 120-days from repatriation does not automatically classify Hernandez's illness as a total permanent disability.³⁰

Proceedings before this Court

Petitioner's Arguments

With Hernandez's motion for reconsideration denied in a Resolution³¹ dated July 22, 2019, Hernandez filed the instant petition praying for a

²³ Id. at 146-147.

²⁴ Id. at 148-150.

²⁵ Id. at 152-153.

²⁶ Id. at 30-125.

²⁷ Supra note 2.

²⁸ *Rollo*, pp. 69-70.

²⁹ Id. at 71.

³⁰ Id. at 71-74.

³¹ Supra note 3.

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reinstatement of the LA's Decision. Hernandez maintains that: (1) respondents failed to overturn the disputable presumption that his illness, *acute pancreatitis*, is work-related; and (2) his incapacity to work after 120 days from repatriation automatically entitles him to total permanent disability compensation.³²

Respondent's Arguments

In their Comment,³³ respondents maintained that Hernandez failed to prove that his illness was work-related. Aside from the fact that *pancreatitis* is not included in the list of occupational diseases under the POEA-SEC, the Medical certificates issued by the doctor who attended to Hernandez at Golden Gate and Dr. Cailipan's Clinical Summary did not state that *pancreatitis* was work-related or work-aggravated.³⁴ Hernandez's 11 years of employment does not sufficiently establish work-relatedness since Hernandez's employment was not continuous but was only on a per-contract basis.³⁵ Respondents disputed the allegation that Hernandez was exposed to deleterious chemicals since BBT-104 was not a chemical tanker but a mere towing/tug vessel. Neither did the ship's provisions aggravate or cause Hernandez illness because the food prepared was based on a healthy balanced diet and there were no complaints from other crew members of BBT-104 regarding the food served to them.³⁶

Anent the three-day mandatory reportorial requirement, respondents averred that Hernandez was not physically incapacitated to submit himself to post-employment medical examination. Neither did Hernandez submit a written notice of his incapacity to report to the company-designated physician. Therefore, the company-designated physician was not able to assess Hernandez' medical condition. Thus, the 120/240-day period to release an assessment does not apply. In any case, the presumption of work-relatedness under the POEA-SEC did not automatically entitle Hernandez to disability compensation. It was incumbent upon Hernandez to prove the conditions for compensability, *viz.*: (1) the seafarer's work must involve the risk described therein; (2) the disease was contracted as a result of the seafarer's exposure to the described risks; (3) the disease was contracted within a period of exposure and under such other factors necessary to contract it; (4) there was no notorious negligence on the part of the seafarer.³⁷

³² Rollo, p. 20.
³³ Id. at 542-561.
³⁴ Id. at 543-545.
³⁵ Id. at 546-547.
³⁶ Id. at 547-549.
³⁷ Id. at 549-556.

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Ruling of the Court

The petition is meritorious. Hernandez is entitled to total permanent disability compensation.

Respondents' defense against any liability to Hernandez is solely dependent on Hernandez's failure to submit himself to a post-employment medical examination. Respondents never denied that Hernandez was promised a medical escort upon his arrival to the Philippines. They averred that Hernandez's confinement nine days after his repatriation militates against any conclusion that Hernandez was exempt from the reportorial requirement because of a physical incapacity such as a deteriorating physical condition.

The purpose of the three-day reportorial requirement under Section 20(A)(3) of the 2010 POEA-SEC is to make it easier for a physician to determine the cause of the illness or injury. This serves as a protection to an employer against any unrelated disability claims. Employers cannot rely on Section 20(A)(3) to evade liability from valid disability claims.

This Court finds Hernandez to have complied with the 3-day reportorial requirement. Respondents knew that Hernandez was suffering from *pancreatitis* from the time he was confined in Bahrain. Respondents were informed of Hernandez's immediate consultation at Golden Gate one day after his arrival (or on October 22, 2015) and his surgery to address his *pancreatitis* on October 30, 2015. Hernandez's surgery nine days from repatriation undeniably showed that Hernandez contracted the illness while under Sealion's employ.

If at all, Hernandez's failure to request for a referral to the company-designated doctor was because respondents led him to believe that such was not required in view of respondents' instruction to collate Hernandez's medical bills for reimbursement. Respondents are now estopped from raising the issue of Hernandez's failure to strictly comply with the 3-day period. Respondents' inaction after being notified of Hernandez's condition was correctly interpreted by the LA and NLRC as an act of abandonment, akin to an employer refusing to refer a seafarer to a company-designated physician – an exception to the 3-day requirement similar to this Court's ruling in *Interorient Maritime Enterprises, Inc. v. Remo*.³⁸

Since respondents' are estopped from demanding Hernandez's strict compliance with the three-day reportorial requirement, they are also estopped from insisting on a final assessment/fitness-to-work certification within the prescribed 120/240 period.

³⁸

636 Phil. 240 (2010).

The next issues would be whether Hernandez sufficiently proved the work-relatedness and compensability of his *pancreatitis*.

We likewise resolve both issues in the affirmative.

Despite not being listed as an occupational disease under Section 32 of the 2010 POEA-SEC, Hernandez's *pancreatitis* is disputably presumed to be work-related under Section 20(A)(4) of the 2010 POEA-SEC since he contracted such sickness during the term of his contract. As such, the company-designated physician's assessment or, in this case, the medical certificate need not categorically state that the illness is work-related or work-aggravated in order for the presumption to apply.

As to compensability, this Court is aware of its earlier ruling in *Romana v. Magsaysay Maritime Corporation*,³⁹ where the presumption of work-relatedness did not extend to a presumption of compensability. Citing *Tagle v. Anglo-Eastern Crew Management Phils., Inc.*,⁴⁰ *Romana* reiterated the ruling that "the legal presumption in Section 20(B)(4) of the [2010] POEA-SEC should be read together with the requirements specified by Sections 32-A of the same contract."⁴¹

There is a need to revisit the application of the presumption of work-relatedness and compensability.

The disputable presumption of work-relatedness should automatically include a corollary disputable presumption of compensability. Otherwise, the presumption of work-relatedness would serve no purpose if the seafarer were still required to submit further proof of entitlement to disability compensation. Therefore, the conditions listed under Section 32-A of the 2010 POEA-SEC are presumed to be satisfied given that the injury or illness occurred during the seafarer's term of employment. This is in keeping with the principal/employer/master/company's "duty to take all necessary precautions to prevent or avoid accident, injury or illness to the crew and to observe the Code of Ethics for Seafarers, and to provide a workplace conducive for the promotion and protection of the health of the seafarers."⁴² If at all, the conditions under Section 32-A can be used by the principal/employer/master/company to disprove the presumption in favor of the seafarer.

The Medical Certificate dated June 1, 2016 issued by respondents' company-designated physician is not clear and convincing evidence that would disprove the presumption that Hernandez's *pancreatitis* is work-related and compensable. Having known of Hernandez's medical condition, respondents should have conducted a more thorough examination to determine whether Hernandez's *pancreatitis* has been fully resolved. The

³⁹ 816 Phil. 194 (2017).

⁴⁰ 738 Phil. 871 (2014).

⁴¹ Supra note 39 at 205.

⁴² *Ventis v. Salenga*, G.R. No. 238578, June 8, 2020.

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Examination Report showed that: (1) Hernandez's X-Ray; (2) Complete Blood Count test; and (3) Basic-DOH Mandatory Medical Examinations all resulted in "significant findings" which required frequent surveillance on Hernandez. Despite these "significant findings," there was no disclosure or further explanation as to what these significant findings are and whether these "significant findings" have been resolved. No explanation was indicated as to why Hernandez was declared fit to work despite these "significant findings." Both the Medical Certificate and Examination Report did not expressly clear Hernandez of *pancreatitis*. A simple check mark on the option of "fit for look-out duty" in the Medical Certificate will not suffice given the unresolved significant findings in the three abovementioned tests. Therefore, the Medical Certificate declaring Hernandez fit to work appears to be hastily issued to meet the 240-day period – having been issued 223 days after Hernandez's repatriation.

On the off chance that the Medical Certificate is considered as an equivalent of the required company-designated physician's final definite assessment, the same was issued beyond the 120-day period. In *Aldaba v. Career Philippines Ship-Management, Inc.*,⁴³ this Court clarified that a company-designated physician must issue a final medical assessment within a period of 120 days from the time the seafarer reported to him/her, otherwise, the seafarer's disability becomes permanent and total. It is only when a company-designated physician provides a sufficient justification, such as requiring further treatment or when the seafarer is uncooperative, that the period can be extended to 240 days. In the absence of any proper justification, the 120-day period applies.⁴⁴

Neither can respondents seek solace in the Pulmonary Evaluation dated May 17, 2016. The Pulmonary Evaluation declaring Hernandez cleared from a pulmonary standpoint does not prove that Hernandez was cleared of *pancreatitis*. Therefore, the tests conducted on Hernandez in 2016 corroborate Hernandez's claim that his *pancreatitis* was not resolved as he still felt abdominal pain and continued to lose weight.

Had respondents heeded the requests made by Hernandez's brother for medical assistance on October 23, 2015 and October 30, 2015, they would have had the opportunity to refer Hernandez to a company-designated physician to determine the nature and extent of Hernandez's illness. Yet, they chose to evade their responsibility by instructing Hernandez to collect his medical receipts for reimbursement.

This Court has repeatedly ruled that the absence of a valid final and definitive assessment by the company-designated physician transforms the seafarer's disability as total and permanent by operation of law.⁴⁵ This is in

⁴³ 811 Phil. 486.

⁴⁴ *Id.*

⁴⁵ *Pastor v. Bibby Shipping Philippines*, G.R. No. 238842, November 19, 2018.



addition to the sickness allowance awarded to Hernandez in compliance with Section 20(A)(3) of the 2010 POEA-SEC.

Respondents' pleadings before the labor tribunals and the CA show that respondents had no genuine interest in determining the cause and extent of Hernandez's illness. Respondents simply relied on the lapse of the three-day mandatory reportorial requirement to enable them to deny any liability for total and permanent disability compensation solely because Hernandez did not personally report to respondents. Respondents' cavalier attitude smacks of its neglect and bad faith that properly entitled to moral and exemplary damages, as awarded by the LA.

Lastly, following this Court's ruling in *Nacar v. Gallery Frames*,⁴⁶ a legal interest of 6% *per annum* shall likewise be imposed on the judgment of the Court awarding a sum of money once that judgment becomes final and executory.⁴⁷

WHEREFORE, the petition is **GRANTED**. The Decision dated April 17, 2019 and the Resolution dated July 22, 2019 of the Court of Appeals in CA-G.R. SP No. 157973 are **REVERSED** and **SET ASIDE** and the Decision dated January 25, 2018 of the Labor Arbiter is **REINSTATED**. The monetary awards stated in the Decision dated January 25, 2018 of the Labor Arbiter shall earn a legal interest of six percent (6%) *per annum* from the finality of this Decision until full payment.

SO ORDERED.

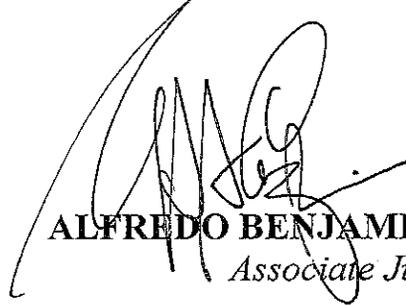

ROSMAR D. CARANDANG
Associate Justice

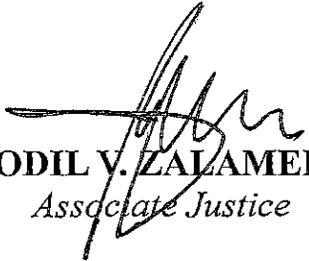
⁴⁶ 716 Phil. 267 (2013).

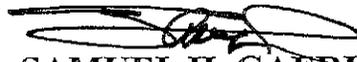
⁴⁷ *Id.* at 283.

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