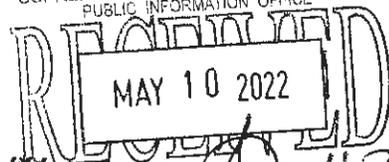




SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 232390
Plaintiff-Appellee,

Present:

- versus -

LEONEN, J.,
Chairperson,
CARANDANG,
ZALAMEDA,
ROSARIO, and
DIMAAMPAO,* JJ.

RAMIL ANTIGUA y QUILA @
“ONROY,”

Promulgated:

Accused-Appellant.

October 6, 2021

X-----MIS-DCB-H-----X

DECISION

CARANDANG, J.:

Before Us is an appeal¹ filed by accused-appellant Ramil Antigua y Quila (Ramil) to reverse the Resolutions² dated December 3, 2015 and October 12, 2016 of the Court of Appeals (CA) in CA G.R. CR-HC No. 07084. The CA dismissed Ramil’s appeal of the Judgment³ dated August 7, 2014 and Resolution⁴ dated September 18, 2014 of the Regional Trial Court (RTC) in Criminal Case No. 03-1040 convicting him of murder. The dispositive portion of the August 7, 2014 Judgment of the RTC provides:

* Designated as additional Member per Special Order No. 3839.

¹ Rollo, pp. 7-9.

² Penned by Associate Justice Melchor Q.C. Sadang, with the concurrence of Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a Member of this Court); id. at 2-3, 4-6.

³ Penned by Acting Presiding Judge Roberto A. Escaro; records, pp. 293-310;

⁴ Id. at 335.

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WHEREFORE, premises considered, the prosecution having been [*sic*] established the guilt of the accused beyond reasonable doubt, this Court finds accused, **RAMIL ANTIGUA, GUILTY of the crime of MURDER**, and is hereby sentenced to suffer the penalty of reclusion perpetua.

Likewise, the accused is ordered to pay the heirs of the victim the following, to wit:

1. Moral damages – P75,000.00
2. Civil Indemnity – 75,000.00
3. Exemplary damages – 30,000.00

SO ORDERED.⁵ (Emphasis in the original)

Antecedents

Ramil, John Doe, and Peter Doe were charged with Murder under Article 248 of the Revised Penal Code (RPC) in an Information⁶ dated December 18, 2002 which states:

That on or about 11:30 in the evening of August 27, 2002 at Barangay Exciban, Labo, Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, treachery and evident premeditation, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously shoot, stab and hack with the use of firearm and bladed weapons one Mario Canaria inside his own dwelling place, thereby causing his instantaneous death, to the damage and prejudice of his heirs.

CONTRARY TO LAW.⁷

Ramil was arraigned on April 14, 2003 and pleaded not guilty.⁸

Plaintiff-appellee presented Marvin Canaria (Marvin), Angel Canaria, Jr. (Angel), Ana Marticio (Ana), and Dolores de Claro (Dolores) as its witnesses.⁹ The victim Mario Canaria (Mario) is the father of Marvin¹⁰ and the brother of Angel, Ana, and Dolores.¹¹ Marvin and Angel testified that on August 27, 2002, at 11:30 p.m., Mario returned to his house at Barangay (Brgy.) Exciban, Labo, Camarines Norte together with Angel, Alberto Gatón (Alberto), and his second wife Lourdes Benitez from a drinking spree at Alberto's house. Mario and Alberto sat together on a bench while Angel sat

⁵ Id. at 310.
⁶ Records, p. 1.
⁷ Id.
⁸ Id. at 293.
⁹ Id.
¹⁰ Id. at 294.
¹¹ Id. at 295 & 298.

on another seat. Marvin was at the *tinabaw*, a place for sleeping made of bamboo sticks located near the roof of the house. Mario was tuning a guitar in preparation for serenading a certain Nena when three men arrived, one of which was Ramil. When one of them pointed a gun at Alberto, Ramil said “[h]indi yan, yung isa.” The one holding the gun then shot Mario. The men ordered Mario, Angel, and Alberto to lie down facing the floor. The gas lamp in the house broke so one of the assailants took Alberto’s flashlight and its light illuminated Ramil. Mario was shot again. Before leaving, the three men said that they should not follow them.¹²

After five minutes, Angel stood up and saw that Mario was already dead. Marvin went down from the *tinabaw* and also saw the dead body of his father. Mario had gunshot, hack, and stab wounds. Angel and Alberto went to Ana’s house to inform her that Mario has died. Afterwards, they went to the nearest camp of the soldiers to report the incident; there, they were advised to go to Brgy. Captain Cesar Lopez (Brgy. Captain Lopez). Brgy. Captain Lopez instructed Brgy. Kagawads (Kgwd.) Victor Tenorio (Tenorio), Romulo Balmaceda (Balmaceda), and Alfredo Alim (Alim) to accompany them. Angel, Alberto, Brgy. Kgwd. Tenorio, Brgy. Kgwd. Balmaceda, and Brgy. Kgwd. Alim arrived at Mario’s house at around 3:00 a.m. of August 28, 2002. Angel claimed that Ramil must have been motivated by the fact that Mario testified against him in a case for illegal logging. Notably, Ramil was also charged with the frustrated murder of Mario. Neither Angel nor Marvin told the barangay officials that Ramil accompanied the persons who shot Mario. However, Ana claimed that Marvin did disclose to the barangay officials that Ramil was the one who said “[h]indi yan, yung isa.” Brgy. Kgwd. Tenorio prepared a report on the incident.¹³

Dr. Marcelito B. Abas conducted an autopsy on Mario’s cadaver. He said that the cause of death was “shock hemorrhagic due to multiple stab, hacking, and gunshot wounds penetrating the lungs and the liver.”¹⁴

Dolores averred that she spent ₱200,000.00 for each of the three cases regarding her brother,¹⁵ namely: (1) the instant case; (2) frustrated murder case against Ramil; and (3) illegal possession of firearm.¹⁶ She also spent ₱2,500.00 for transportation expenses from Tondo, Manila to Labo, Camarines Norte to attend court hearings, ₱400.00 for food for every court hearing from 2002 to 2006, ₱5,000.00 for the acceptance fee of the private prosecutor, and ₱1,500.00 for every court appearance of the private prosecutor from 2004 to 2006. Dolores did not present receipts for her claim of actual damages.¹⁷

¹² Id. at 294-296.

¹³ Id. at 294-298.

¹⁴ Id. at 57.

¹⁵ Id. at 298.

¹⁶ TSN dated May 31, 2006, p. 3.

¹⁷ Records, pp. 298-299.

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For his defense, Ramil testified and also presented Brgy. Kgw. Alim, Brgy. Kgw. Tenorio, and Flordeliza Padilla (Flordeliza) as his witnesses. Ramil knew Mario because he previously resided in Brgy. Exciban. He decided to transfer to Brgy. Macogon, Labo, Camarines Norte so that his five children could be closer to their school. His new residence was more or less five meters away from his sister's house. Ramil claimed that on August 27, 2002, he had a drinking session with Seminiano Gerez, Armando Aguilar, Eddie Serdo, and Henry Rustique. They began their drinking spree at about 4:00 p.m. They bought some of their liquor from Flordeliza's store located 15 meters away from where Ramil would construct his house. At 10:00 p.m., Ramil slept at his sister's house. Flordeliza saw him sleeping when she went to urinate at 1:00 a.m. of August 28, 2002. She also said that the place where Ramil drank could be reached within 10 seconds from the boundary of Brgy. Exciban and Brgy. Macogon. Ramil woke up at 6:00 a.m. on August 28, 2002 and started constructing his house two hours later.¹⁸

Brgy. Kgw. Alim testified that he was summoned by Brgy. Captain Lopez to accompany Angel and Alberto because Mario was killed. He also brought along Brgy. Kgw. Tenorio and Brgy. Balmaceda. When they arrived at Mario's house, they asked Angel and Alberto if they recognized Mario's killer. They responded no because it was drizzling though Marvin said that Mario's killer was wearing fatigue pants. Brgy. Kgw. Alim, Brgy. Kgw. Tenorio, and Brgy. Kgw. Balmaceda did not find any empty shell in Mario's house. Upon the request of Mario's family, they placed his cadaver on the bench.¹⁹

Ruling of the Regional Trial Court

On August 1, 2014, the RTC found Ramil guilty beyond reasonable doubt of the crime of murder and sentenced him to a penalty of imprisonment of *reclusion perpetua* and to pay the following amounts: (1) ₱75,000.00 as moral damages; (2) ₱75,000.00 as civil indemnity; and (3) ₱30,000.00 as exemplary damages.²⁰ The RTC held that the testimonies of plaintiff-appellee's witnesses duly established that Ramil was the one who shouted "[h]indi yan, yung isa" or "[h]indi yan, yung nasa likod" in reference to Mario. Angel recognized Ramil's voice because they have been friends for two years while Marvin claimed that Ramil was his cousin. Based on jurisprudence, the sound of the voice of a person is an acceptable means of identification if it is established that the witness and the accused knew each other personally and for a close number of years. Further, Ramil's face was also seen when the light from Alberto's flashlight shone on it. Plaintiff-appellee's witnesses had no ill motive against Ramil.²¹

¹⁸ Id. at 301-302.

¹⁹ Id. at 299-300.

²⁰ Id. at 310.

²¹ Id. at 304-307.



According to the RTC, Ramil's companions shot Mario. Aside from gunshot wounds, Mario also suffered from stab and hacking wounds which resulted in his death. Ramil conspired with the two unidentified men in hacking, stabbing, and shooting Mario. He induced his companions by identifying Mario. Treachery was present because Ramil and his co-conspirators suddenly entered Mario's house and shot him. They attacked Mario deliberately and without warning in a swift and unexpected way that gave him no opportunity to resist or defend himself.²²

The RTC did not give weight to Ramil's alibi because Brgy. Exciban and Brgy. Macogon are close to each other. Alibi can only prosper if it is shown that it was physically impossible for the accused to be present at the crime scene or its immediate vicinity at the time of its commission.²³

Ramil filed his motion for reconsideration but it was denied by the RTC.²⁴ Thereafter, he appealed to the CA.

Ruling of the Court of Appeals

On December 3, 2015, the CA issued a Resolution²⁵ dismissing Ramil's appeal. This was due to his failure to file his appellant's brief within the reglementary period and his counsel's failure to inform the CA of his present and complete address despite being required to do so.²⁶ Ramil filed a Very Urgent Motion for Reconsideration but on October 12, 2016, the CA resolved to deny it.²⁷ The CA noted that in its Resolution dated May 11, 2015, Ramil's counsel was directed to show cause why the appeal should not be dismissed for failure to file the appellant's brief within the reglementary period. This was received at the given address of Ramil's counsel on June 4, 2015 per the certification of the Postmaster. Ramil only filed his motion for reconsideration on January 4, 2016 or seven months beyond the expiration of the reglementary period that was counted from June 4, 2015. The excuse given by Ramil's counsel of heavy workload did not justify his non-observance of the rules on appeal. The CA held that the period to file pleadings is jurisdictional.²⁸

After the CA denied his motion, Ramil appealed to this Court. Ramil filed a Supplemental Brief²⁹ while plaintiff-appellee manifested that there was no brief that it may respond to because the CA did not admit Ramil's brief. In any case, there are no transactions or events that occurred since the CA promulgated its December 3, 2015 Resolution.³⁰

²² Id. at 309-310.

²³ Id. at 307-309.

²⁴ Id. at 335.

²⁵ Supra note 2.

²⁶ *Rollo*, p. 2.

²⁷ Id. at 5.

²⁸ Id. at 5.

²⁹ Id. at 38-59.

³⁰ Id. at 14-16.



Ramil argued that the RTC erred in ruling that he was duly identified as one of Mario's assailants and that his alibi was weak. His motion to fix bail was notably granted by the RTC and this was affirmed by the CA. Ramil pointed out that the judge who tried his case and had the opportunity to observe the deportment of the witnesses was not the same judge who rendered the judgment.³¹ He insisted that neither Angel nor Marvin was able to positively identify him. In contrast, Brgy. Kgwd. Tenorio and Brgy. Kgwd. Alim clearly testified that Angel and Marvin did not inform them that they saw Ramil. Plaintiff-appellee did not rebut their testimony or explain why Angel and Marvin failed to give such relevant information when they were asked who killed Mario.³² Ramil pointed out that Angel and Marvin could be motivated by the frustrated murder case filed by Mario against him.³³

In addition, Ramil argues that it was not established that Angel and Marvin were familiar with his voice. Since bad blood existed between them, it can be assumed that they have not talked to each other for quite some time.³⁴

Moreover, Ramil claims that his mere utterance of "[h]indi yan, yung isa" is not enough to establish that he conspired with the two unidentified men to kill Mario. The statement is too vague to be construed as a command to kill Mario. Ramil argued that based on jurisprudence, passive presence at the crime scene is insufficient to hold one liable for the commission of a crime. Conspiracy must be real and presumptive and must be proven by positive and convincing evidence.³⁵ Similarly, treachery cannot be presumed and must be proven conclusively as the act itself. Ramil pointed out plaintiff-appellee's admission that the three assailants did not enter Mario's house. Plaintiff-appellee's witnesses were not even able to see the manner of attack or actual killing of Mario. Accordingly, Ramil prayed for his acquittal.³⁶

Issues

The issues to be resolved in this case are:

- I. Whether the CA erred in dismissing Ramil's appeal; and
- II. Whether Ramil is guilty of murder.

Ruling of the Court

We partially grant the appeal.

³¹ Id. at 41.
³² Id. at 43.
³³ Id. at 52.
³⁴ Id.
³⁵ Id. at 54.
³⁶ Id. at 55.



Ramil undoubtedly failed to file his appellant's brief on time. As such, the CA was acting within its discretion in dismissing his appeal pursuant to Section 1 (e), Rule 50 of the Rules of Court.³⁷ Nonetheless, We shall determine the merits of Ramil's appeal considering that his personal liberty is at stake. As We have held in *People v. Ramos*,³⁸ "procedural rules take a step back when it would subvert or frustrate the attainment of justice, especially when the life and liberty of the accused is at stake."³⁹

The crime of murder is penalized under Article 248 of the RPC. Its elements are: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC;⁴⁰ and (4) that the killing is not parricide or infanticide.⁴¹ The RTC is correct that the elements of murder were proven in this case. *First*, Mario was killed. *Second*, Mario's death was due to the gunshot and stab wounds inflicted by Ramil's companions. *Third*, the killing was attended by treachery. Article 14(16) of the RPC provides that "[t]here is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make." As found by the RTC, Mario was unaware of the impending attack against him. He was simply tuning his guitar when his assailants suddenly arrived and attacked him. Mario was not armed and he had no opportunity to defend himself.

The RTC is likewise correct that Ramil's presence during the incident was duly proven. Both Marvin and Angel heard Ramil tell one of his companions "[h]indi yan, yung isa" before Mario was shot.⁴² Marvin is familiar with Ramil's voice because the latter is his cousin.⁴³ To be more specific, his grandfather (on his mother's side) is the brother of Ramil's

³⁷ Section 1. *Grounds for dismissal of appeal.* – An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds: x x x
(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules[.]

³⁸ 791 Phil. 162 (2016).

³⁹ *Id.* at 171.

⁴⁰ Article 248. *Murder.* – Any person who, not falling within the provisions of article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusión perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
2. In consideration of a price, reward or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a street car or locomotive, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

⁴¹ *Yap v. People*, G.R. No. 234217, November 14, 2018.

⁴² TSN dated July 16, 2003, pp. 13-14; TSN dated August 7, 2003, p. 12.

⁴³ *Id.* at 14.

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father. Ramil's lot in Exciban was also beside the property of Marvin's family.⁴⁴ As for Angel, he has been friends with Ramil for two years.⁴⁵ Angel lives in the same barangay as Ramil.⁴⁶ The Court has held that the sound of a person's voice is an acceptable means of identification where it is established that the witness and the accused knew each other personally and closely for a number of years.⁴⁷ In this case, Marvin and Angel were able to show that they were sufficiently familiar with Ramil such that they could properly identify his voice.

In addition to hearing Ramil's voice, Marvin and Angel claimed that they saw him. Marvin said in his *Sinumpaang Salaysay* dated September 3, 2002 that the light from the flashlight and the moon illuminated Ramil.⁴⁸ He also testified that he saw Ramil by peeping in between the bamboo sticks of the *tinabaw*.⁴⁹ A flashlight taken from Alberto by one of the unidentified assailants shone on Ramil's face.⁵⁰ Angel said during his testimony that he saw Ramil's face illuminated by a flashlight when he lifted his head while lying face down on the ground.⁵¹

Nonetheless, Ramil should not be held liable as a principal of the crime of murder against Mario but only as an accomplice. On one hand, Article 17 of the RPC provides that the following persons are considered principals: (1) those who take a direct part in the execution of the act; (2) those who directly force or induce others to commit it; and (3) those who cooperate in the commission of the offense by another act without which it would not have been accomplished. On the other hand, Article 18 of the RPC defines accomplices as those persons who, not being included in Article 17, cooperate in the execution of the offense by previous or simultaneous acts. The requisites for considering a person as an accomplice are: (1) that there be community of design; that is, knowing the criminal design of the principal by direct participation, he or she concurs with the latter in his purpose; (2) that he or she cooperates in the execution by previous or simultaneous act, with the intention of supplying material or moral aid in the execution of the crime in an efficacious way; and (3) that there be a relation between the acts done by the principal and those attributed to the person charged as accomplice.⁵²

The Court distinguished accomplices from conspirators in *People v. De Vera*.⁵³

⁴⁴ Records, p. 22.

⁴⁵ TSN dated August 7, 2003, p. 14.

⁴⁶ Records, p. 31.

⁴⁷ *People v. Zabala*, 773 Phil. 412, 422 (2015).

⁴⁸ Records, p. 12.

⁴⁹ TSN dated July 16, 2003, p. 20.

⁵⁰ TSN dated August 6, 2003, p. 12.

⁵¹ TSN dated August 7, 2003, pp. 16-17.

⁵² *Saldua v. People*, G.R. No. 210920, December 10, 2018.

⁵³ 371 Phil. 563 (1999)

Conspirators and accomplices have one thing in common: they know and agree with the criminal design. Conspirators, however, know the criminal intention because they themselves have decided upon such course of action. Accomplices come to know about it after the principals have reached the decision, and only then do they agree to cooperate in its execution. Conspirators decide that a crime should be committed; accomplices merely concur in it. Accomplices do not decide whether the crime should be committed; they merely assent to the plan and cooperate in its accomplishment. Conspirators are the authors of a crime; accomplices are merely their instruments who perform acts not essential to the perpetration of the offense.⁵⁴

Based on the testimonies of Marvin and Angel, all Ramil did was identify Mario. There is no proof that the other assailants would not have been able to carry out their attack on Mario without Ramil's assistance. Further, Ramil did not direct his companions to shoot him or attack Mario himself. There is likewise no evidence that Ramil previously entered into an agreement with Mario's assailants to attack him. It is well settled that mere presence in the crime scene is not sufficient proof of conspiracy.⁵⁵ All told, Ramil undoubtedly participated in the incident but his act of identifying Mario and standing by while his companions attacked the latter are not indispensable to the murder of Mario. There being no proof that he conspired with his companions, Ramil can only be held liable as an accomplice.

Pursuant to Article 52 of the RPC, the proper penalty for Ramil as an accomplice is the penalty next lower in degree than that prescribed for the consummated felony of murder, which is *reclusion perpetua* to death.⁵⁶ The penalty next lower in degree is *reclusion temporal*. Since there are no mitigating or aggravating circumstances, the penalty should be in its medium period. Applying Act No. 4103 or the Indeterminate Sentence Law, the minimum period for the penalty of imprisonment of Ramil is eight (8) years and one (1) day of *prison mayor* while the maximum period is fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*.

The Court held in *People v. Jugueta*⁵⁷ that the following amounts must be paid to the heirs of the victim of the crime of murder punishable by *reclusion perpetua*: (1) ₱75,000.00 as civil indemnity; (2) ₱75,000.00 as moral damages; (3) ₱75,000.00 as exemplary damages; and (4) ₱50,000.00 as temperate damages.⁵⁸ As an accomplice, Ramil is only liable for 1/5 of the amounts granted to the heirs of Mario,⁵⁹ to wit: (1) ₱15,000.00 as civil indemnity; (2) ₱15,000.00 as moral damages; (3) ₱15,000.00 as exemplary

⁵⁴ Id. at 585.

⁵⁵ Supra note 52.

⁵⁶ Article 248 of the RPC was amended by Section 6 of the Death Penalty Law, Republic Act No. 7659.

⁵⁷ 783 Phil. 806 (2016)

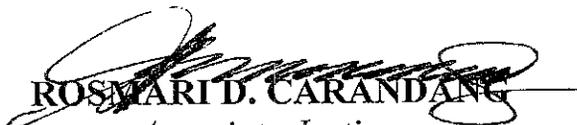
⁵⁸ Id.

⁵⁹ See *People v. Montesclaros*, 607 Phil. 296 (2009).

damages; and (4) ₱10,000.00 as temperate damages. To clarify, Ramil cannot be held subsidiarily liable for the amount allotted to the principal if they die before the finality of this Decision because the principal's death would extinguish their civil liability.⁶⁰ The amounts awarded shall be subject to a legal interest of six percent (6%) *per annum* from the finality of this Decision until their full payment.

WHEREFORE, the appeal is partially **GRANTED**. The Resolutions dated December 3, 2015 and October 12, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07084 are **AFFIRMED with MODIFICATION** in that accused-appellant Ramil Antigua y Quila is found **GUILTY** as an accomplice in murder and is sentenced to a penalty of imprisonment of eight (8) years and one (1) day of *prision mayor* as minimum to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal* as maximum. He is also **ORDERED** to pay the following to the heirs of the victim Mario Canaria: (1) ₱15,000.00 as civil indemnity; (2) ₱15,000.00 as moral damages; (3) ₱15,000.00 as exemplary damages; and (4) ₱10,000.00 as temperate damages. The total monetary award is subject to an interest of six percent (6%) *per annum* from the finality of this Decision until its full satisfaction.

SO ORDERED.

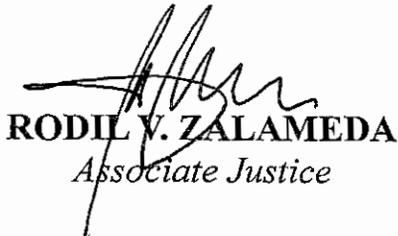

ROSMARI D. CARANDANG
Associate Justice

⁶⁰ Supra note 52.

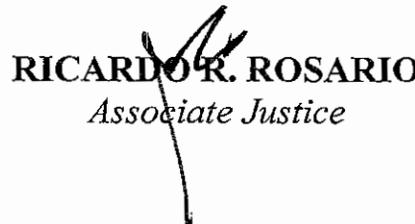
WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



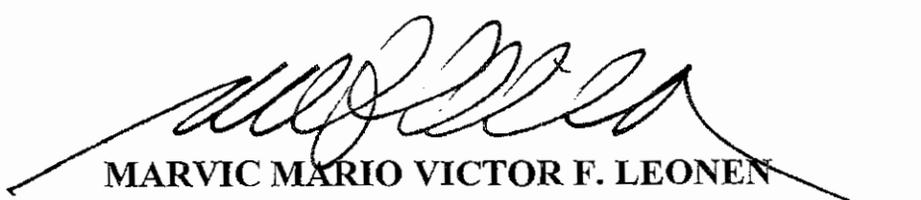
RICARDO R. ROSARIO
Associate Justice



JAPAR B. DIMAAMPAO
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.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

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.



ALEXANDER G. GESMUNDO
Chief Justice