



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

ROWENA B. PLASAN,  
Petitioner,

G.R. No. 262122

-versus-

Present:  
LEONEN, *SAJ*, Chairperson,  
LAZARO-JAVIER,\*  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., *JJ*.

PEOPLE OF THE PHILIPPINES,  
Respondent.

Promulgated:

OCT 23 2023

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DECISION

LOPEZ, J., *J*:

This Court resolves the Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Amended Decision<sup>2</sup> of the Court of Appeals (CA), which affirmed with modification the Judgment<sup>3</sup> of the Regional Trial Court (RTC) convicting Rowena B. Plasan (Rowena) for violation of Section 10(a) of Republic Act No. 7610.

The Antecedents

The instant case stemmed from an Information filed against Rowena, the accusatory portion of which states:

\* On official business per Special Order No. 30310 dated October 6, 2023.

<sup>1</sup> *Rollo*, pp. 17–35.

<sup>2</sup> *Id.* at 53–55. The June 21, 2022 Amended Decision in CA-G.R. CR No. 01784-MIN was penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Lily V. Biton and Anisah B. Amanodin-Umpa of the Former Twenty-Third Division, Court of Appeals, [REDACTED].

<sup>3</sup> *Id.* at 78–90. The December 22, 2017 Judgment was penned by Presiding Judge Eduardo S. Casals of Branch 1, Regional Trial Court, [REDACTED].

## Criminal Case No. 18277

That on or about 11:00 o'clock [sic] in the morning of August 2, 2013 at [REDACTED],\*\* Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously commit emotional abuse upon the person of a sixteen (16) year old [AAA262122] by uttering the words, to wit: KANA SI [AAA262122] TAN-AWA RA GUD ANG LAWAS ANA, DILI NA JUD VIRGIN KANA NGA LAWAS GIKAN NA SYA NAGPAKUHA KABANTAY KA PILA KA ADLAW WALAY GAWAS-GAWAS WALA NATO NAKIT-AN TOA SILA SA [REDACTED] NAGPAKUHA TO SILA SAIYA MAMA UG PAPA and TAN AWA GANE NA SI [AAA262122], JA DILI NA VIRGIN MAO BANA ANG LAWAS SA DALAGA, GIKAN NA NAGPAKUHA KATONG NAWALA SILA DIRI SA [REDACTED] MAO TO IYANG GIPAKUHA SA IYA MAMA UG PAPA DIDTO SA [REDACTED] which when translated in English, substantially means: LOOK AT THE BODY OF [AAA262122]. THAT BODY IS NOT A VIRGIN ANYMORE. IT LOOKS LIKE SHE HAS UNDERGONE AN ABORTION. DID YOU NOTICE SHE DID NOT WENT [sic] OUT. THEY WENT TO [REDACTED]. SHE HAD AN ABORTION. SHE IS WITH HER FATHER AND MOTHER and LOOK AT THAT BODY OF [AAA262122], JA SHE IS NOT A VIRGIN ANYMORE. IS THAT THE BODY OF A VIRGIN. SHE JUST HAD AN ABORTION. WHEN SHE WAS NOT HERE IN [REDACTED]. SHE IS WITH HER FATHER AND MOTHER IN [REDACTED] and other form of psychological maltreatment to the prejudice of the psychological and mental development of the said [AAA262122] represented herein by her mother and in such amount as maybe proven in Court.

CONTRARY TO LAW: ("Article VI, Section 10 (a) of RA 7610 known as the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act")<sup>4</sup>

Upon arraignment, Rowena pleaded not guilty to the charge against her. Pre-trial commenced, and then, trial on the merits ensued.<sup>5</sup>

The prosecution presented the following witnesses: (1) AAA262122; (2) Jaja B. Contadan (Jaja); (3) BBB262122; and (4) Catherine C. Caingkoy. On the other hand, the defense presented the following witnesses: (1) Rowena; (2) Apple B. Plasan; and (3) Ramon J. Sierrez (Ramon).<sup>6</sup>

\*\* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 7610, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

<sup>4</sup> *Id.* at 78-79.

<sup>5</sup> *Id.* at 79.

<sup>6</sup> *Id.* at 79-82.

According to the prosecution, at or about 2:00 p.m. of August 2, 2013, AAA262122, who was then 16 years old, went out of her residence to visit her friend. On her way to her friend, she stopped by a barbecue stand. Thereafter, Rowena said to Jaja, "*Ja, look at [AAA262122], is that the body of a virgin? She went to [REDACTED] with her parents for her to have an abortion.*" Upon hearing those utterances, AAA262122 went home and told her mother about the incident.<sup>7</sup> Jaja confirmed the remarks made by Rowena about AAA262122, who was a mere two meters away from them at the time of the incident.<sup>8</sup> After hearing those remarks, AAA262122 felt ashamed, angry, and did not want to leave her house anymore.<sup>9</sup>

Rowena denied the allegations against her and insisted that it was physically impossible for her to be at the barbecue stand at the time of the incident and utter those words. Her co-worker Ramon corroborated her claim, asserting that Rowena was at their workplace the entire day, including during their lunch break.<sup>10</sup>

In its Judgment,<sup>11</sup> the RTC found Rowena guilty of the crime charged, the dispositive portion of which states:

WHEREFORE, after carefully weighing the evidence presented, accused Rowena Palasan y Bubuli is hereby found guilty beyond reasonable doubt of the crime charge[d].

Accordingly, she is sentenced to suffer imprisonment of Six (6) years and One (1) day to Eight (8) years and Eight (8) months and to pay private complainant the sum of Twenty[-]Five Thousand Pesos ([PHP] 25,000.00) as moral damages.

She shall serve her sentence at Davao Prison and Penal Farms, Dujali, Davao del Norte.

SO ORDERED.<sup>12</sup>

In convicting Rowena, the RTC gave credence to AAA262122's positive identification of Rowena as the person who willfully, unlawfully, and feloniously committed emotional abuse upon her. It was determined that such abuse has caused her pain and emotional disturbance that has led her to refrain from leaving her house because of shame.<sup>13</sup>

Then, Rowena filed an appeal with the CA.<sup>14</sup>

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<sup>7</sup> *Id.* at 80.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 39, 87.

<sup>11</sup> *Id.* at 78-90.

<sup>12</sup> *Id.* at 90.

<sup>13</sup> *Id.* at 89.

<sup>14</sup> *Id.* at 40, 66-77.

In its Decision,<sup>15</sup> the CA denied the appeal of Rowena and affirmed her conviction for the crime charged.<sup>16</sup>

In denying the appeal of Rowena, the CA found that the utterances she made were committed with intent to debase, degrade, or demean the intrinsic worth of the child. Rowena made the utterances without any provocation nor were they made out of excitement.<sup>17</sup>

Further, the CA refused to give merit to Rowena's defense of physical impossibility. The CA explained that Rowena's physical impossibility to be at the scene of the crime was not shown as her place of work was accessible to the scene of the crime by means of public transportation.<sup>18</sup>

Aggrieved, Rowena filed a Motion for Reconsideration.<sup>19</sup>

In its Amended Decision,<sup>20</sup> the CA denied the Motion for Reconsideration filed by Rowena. The dispositive portion of the Decision states:

WHEREFORE, premises considered, the Motion for Reconsideration is PARTIALLY GRANTED. The penalty imposed is modified. Applying the Indeterminate Sentence Law[,] accused-appellant is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day, as minimum[,] to eight (8) years, as maximum.

SO ORDERED.<sup>21</sup>

The CA applied the Indeterminate Sentence Law and modified the penalty imposed by the RTC to six years and one day, as minimum, to eight years, as maximum.<sup>22</sup>

Hence, this Petition.

In the present Petition, Rowena raises the following arguments: (1) she cannot be punished under Republic Act No. 7610 when the acts complained of fall under the Revised Penal Code;<sup>23</sup> (2) Section 10(a) of Republic Act No. 7610 requires an intent to debase, degrade, or demean the intrinsic worth of a

<sup>15</sup> *Id.* at 37-45. The March 25, 2021 Decision in CA-G.R. CR No. 01784-MIN was penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Lily V. Biton and Anisah B. Amanodin-Umpa of the Twenty-Third Division, Court of Appeals, [REDACTED].

<sup>16</sup> *Id.* at 45.

<sup>17</sup> *Id.* at 43.

<sup>18</sup> *Id.* at 45.

<sup>19</sup> *Id.* at 46-51.

<sup>20</sup> *Id.* at 52-55.

<sup>21</sup> *Id.* at 55.

<sup>22</sup> *Id.* at 54-55.

<sup>23</sup> *Id.* at 28-29.

child victim and this was not proven by the prosecution;<sup>24</sup> and (3) the Indeterminate Sentence Law was not correctly applied.<sup>25</sup>

Meanwhile, in its Comment with Recommendation for Modification of Penalty,<sup>26</sup> the Office of the Solicitor General (OSG) insisted that: (1) only questions of law may be raised in petitions for review on *certiorari* under Rule 45;<sup>27</sup> and (2) Rowena's guilt for violation of Section 10(a) of Republic Act No. 7610 has been proven beyond reasonable doubt.<sup>28</sup> Nonetheless, the OSG suggested the modification of the penalty imposed in accordance with the Indeterminate Sentence Law.<sup>29</sup>

### Issues

First, whether Rowena B. Plasan may be punished under Republic Act No. 7610 when the acts complained of fall under the Revised Penal Code;

Second, whether Section 10(a) of Republic Act No. 7610 requires an intent to debase, degrade, or demean the intrinsic worth of a child victim and whether this was not proven by the prosecution; and

Finally, whether the CA imposed the correct penalty.

### This Court's Ruling

*Rowena may be punished under Republic Act No. 7610 even when the acts complained of fall under the Revised Penal Code*

In the recent case of *San Juan v. People*,<sup>30</sup> we resolved the issue of whether an accused may be punished under Republic Act No. 7610, particularly Section 10(a) of the law, for acts falling under the Revised Penal Code. This Court clarified the intention of the legislature in introducing the provision as follows:

[P]rior to the enactment of R.A. No. 7610, an act falling under Article 59 of P.D. No. 603, when committed by a non-parent, is punishable under the appropriate counterpart provision of the RPC. With the absence of a counterpart provision under the RPC for paragraphs 6, 10 and 11 of Article 59 of P.D. No. 603, a significant gap was left in the legislation concerning

<sup>24</sup> *Id.* at 26-28.

<sup>25</sup> *Id.* at 29-31.

<sup>26</sup> *Id.* at 113-132.

<sup>27</sup> *Id.* at 118-120.

<sup>28</sup> *Id.* at 120-124.

<sup>29</sup> *Id.* at 124-127.

<sup>30</sup> G.R. No. 236628, January 17, 2023 [Per J. J. Lopez, *En Banc*].

the protection of children. When a non-parent commits these acts against a child, the same cannot be punished under P.D. No. 603 or the RPC. With the advent of R.A. No. 7610, Section 10(a) filled this gap, and now punishes acts under Article 59 of P.D. No. 603 even if committed by a non-parent including those covered by paragraphs 6, 10, and 11 of the latter law[.]

....

*Apropos*, the intention of the legislature in introducing Section 10(a) of R.A. No. 7610 is to increase the penalties for acts committed against children as enumerated under the P.D. No. 603 and the RPC. This signifies the intention of the legislature to bring within the ambit of R.A. No. 7610, the provisions of Article 59 of P.D. No. 603 that are not covered by the RPC, as well as those falling under the RPC. Thus, an interpretation of the phrase “*but not covered by the [RPC], as amended,*” that would render the application of R.A. No. 7610 only when the act is not covered by the RPC would be contrary to the intention of the legislature. To reiterate, said phrase qualifies the antecedent phrase “*including those covered by Article 59 of [P.D.] No. 603, as amended,*” and taken as a whole, means that Section 10 (a), R.A. No. 7610 applies whenever acts of abuse are committed against children under Article 59 of P.D. No. 603 that are not covered by the RPC. With the word “any person” under Section 10 (a) and the intention to increase the penalties of the punishable acts involving child abuse, Section 10 (a) of R.A. No. 7610 encompasses a wide-ranging act by which the punishable acts under Article 59 of P.D. No. 603, whether or not these are covered by the RPC, as well as acts under the RPC, involving children may be examined.<sup>31</sup> (Emphasis in the original)

Considering this Court’s explanation in *San Juan*, it is erroneous for Rowena to argue that she cannot be punished under Republic Act No. 7610 for a conduct that allegedly falls under the Revised Penal Code. The objectives of the framers of the law are clear. In introducing Section 10(a) of Republic Act No. 7610, the Congress intended to bring within the scope of the law provisions of Article 59 of Presidential Decree No. 603 that are not covered by the Revised Penal Code, as well as those falling under the same Code, and to increase the penalties for the acts punished.

Having settled that Rowena may be punished under Section 10(a) of Republic Act No. 7610 even when the acts complained of fall under the Revised Penal Code, this Court shall now delve into the intent required to be convicted of the offense.

*Section 10(a) of Republic Act No. 7610 only requires an intent to debase, degrade, or demean the intrinsic worth of a child victim when the offense charged covers acts falling under Section 3(b)(2)*

<sup>31</sup> *Id.* at 12–14. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

Section 10(a) of Republic Act No. 7610 states:

**Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.**

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period. (Emphasis in the original)

In examining the culpability of Rowena, the foregoing provision must be read with Section 3(b) of Republic Act No. 7610 which offers an enumeration of acts that may be considered "Child Abuse," thus:

**Section 3. Definition of Terms.**

....

(b) "Child Abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) *Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;*
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death. (Emphasis supplied)

In *Araneta v. People*,<sup>32</sup> this Court identified the four distinct acts contemplated by Section 10(a) of Republic Act No. 7610. These include: (1) child abuse; (2) child cruelty; (3) child exploitation; and (4) being responsible for conditions prejudicial to the child's development.<sup>33</sup>

In *San Juan*, this Court distinguished the intent required in Section 3(b)(1) *vis-à-vis* the intent required in Section 3(b)(2) as follows:

Section 3 (b) (1) focuses on the act and the general criminal intent to commit the physical or psychological abuse, while Section 3(b)(2), which, in

<sup>32</sup> 578 Phil. 876 (2008) [Per J. Chico-Nazario, Third Division].

<sup>33</sup> *Id.* at 884-885.

addition to general criminal intent, requires specific criminal intent to debase, degrade or demean the intrinsic worth of the child as a human being. The distinction primarily flows from the difference in language, wherein Section 3(b)(1) articulates specific acts falling thereunder (*i.e.* “neglect,” “abuse,” “cruelty,” etc.), while Section 3(b)(2) is directed against “any act by deeds or words,” which expansive language must be delimited by the qualifier “which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.”

.....

This Court clarified in *Malcampo-Repollo v. People* that not all crimes punishable under R.A. No. 7610 requires proof of such specific intent:

The act of debasing, degrading, or demeaning the child’s intrinsic worth and dignity as a human being has been characterized as a specific intent in some forms of child abuse. The specific intent becomes relevant in child abuse when: (1) it is required by a specific provision in Republic Act No. 7610, as for instance, in lascivious conduct; or (2) when the act is described in the [I]nformation as one that debases, degrades, or demeans the child’s intrinsic worth and dignity as a human being.

Thus, it is only when the Information alleges a specific intent, or when the provision of law demands it, must the prosecution prove its existence. Specific intent becomes significant for determining the specific provision—whether under the RPC, under R.A. No. 7610, or even other criminal laws—under which an act will be punished. As such, where the specific intent is not proven under a provision of law, the act may still be punished under other applicable penal laws provided that the elements of the crime has been satisfied. It is only when both general and specific intent are not proven that an accused is entitled to acquittal.<sup>34</sup> (Citations omitted)

To recall, the Information filed against Rowena did not carry the qualifying allegations of “debases, degrades, or demeans the intrinsic worth and dignity of a child as a human being.” Instead, the Information alleged that through Rowena’s remarks, she inflicted “*emotional abuse .... and other form[s] of psychological maltreatment to the prejudice of the psychological and mental development of the [victim]*”<sup>35</sup> which falls under Section 3(b)(1). Thus, the argument of Rowena that the intent to debase, degrade, or demean the intrinsic worth of a child victim must be proven is misplaced.

In determining the guilt of Rowena, it is the general criminal intent to commit psychological abuse on the child victim that must be taken into consideration. In this regard, this Court is guided by the definition of psychological abuse found in Section 2(b) of the Implementing Rules and Regulations of Republic Act No. 7610, which states:

<sup>34</sup> *Supra* note 30, at 15–18. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>35</sup> *Rollo*, pp. 78–79.

“Psychological injury” means harm to a child’s psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal[,] or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response or cognition[.]

As the framework to be observed in scrutinizing the criminal liability of Rowena has already been laid down, this Court shall now determine whether Rowena’s guilt for violation of Section 10(a) of Republic Act No. 7610 was proven beyond reasonable doubt.

As a rule, issues dealing with the sufficiency of evidence and the relative weight accorded to it by the lower court cannot be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court as such remedy is limited only to questions of law. This Court is not a trier of facts and it is not its function to analyze or weigh all over again evidence already considered in the proceedings below.<sup>36</sup> While there are exceptions to this rule, none of the exceptions are present in this case.

In any case, even after a judicious review of the case, this Court finds that the prosecution was able to establish Rowena’s guilt beyond reasonable doubt for violation of Section 10(a) of Republic Act No. 7610. It must be emphasized that the subject of Rowena’s remarks, which were expressed in the presence of AAA262122, attacked her character, reputation, and dignity. This exposed AAA262122, who was only 16 years old at the time of the incident, to contempt, ridicule, and humiliation. This naturally gave rise to psychological abuse within the context of Section 3(b)(1) of Republic Act No. 7610 and this abuse became apparent as she felt ashamed and did not want to go out of their house anymore.<sup>37</sup>

Based on the testimony of the prosecution’s witnesses, it is apparent that the utterances made by Rowena were not simply offhand remarks nor were these provoked by any emotional outrage. Though there was allegedly a boundary dispute between Rowena and the parents of AAA262122,<sup>38</sup> she was not triggered by any instance immediately prior to the incident that could have justified her conduct and absolved her from liability. The statements were loudly made in the presence of AAA262122, as revealed in Jaja’s testimony quoted below:

Q: Now[,] when this alleged utterance was being told by the accused, she told this to you only?

A: Yes, Sir.

Q: She merely whispered to you this particular word?

<sup>36</sup> *Grageda v. Fact-Finding Investigation Bureau*, G.R. Nos. 244042, 244043, & 243644, March 18, 2021 [Per J. Carandang, First Division].

<sup>37</sup> *Rollo*, p. 80.

<sup>38</sup> *Id.*

- A: No, Sir. It is not.
- Q: So are you trying to say Madam Witness, that the accused in this case was telling something bad in a loud voice that the person can hear?
- A: Yes, Sir.
- Q: So she deliberately let her voice louder so that this particular person could hear, Madam Witness?
- A: Maybe because she spoke louder.
- Q: But you could not say whether or not [AAA262122] was able to hear what this accused told to you?
- A: I am so sure about it because we were very near with each other.<sup>39</sup> (Emphasis in the original)

Considering the foregoing, this Court finds that the guilt of Rowena was proven beyond reasonable doubt.

*There is a need to modify the penalty imposed by the CA*

With respect to the penalty, there is a need to modify the penalty imposed by the CA. To recall, the CA sentenced Rowena to suffer the indeterminate penalty of six years and one day, as minimum, to eight years, as maximum.<sup>40</sup>

Section 10(a) of Republic Act No. 7610 prescribes the penalty of *prision mayor* in its minimum period, which has a period of six years and one day to eight years. In the absence of any mitigating or aggravating circumstance, the maximum penalty to be imposed upon Rowena shall be taken from the medium period of the imposable penalty, which has a range of six years, eight months, and one day to seven years and four months. Applying the Indeterminate Sentence Law, the minimum penalty to be imposed shall be taken one degree lower from the imposable penalty, which is *prision correccional* maximum, with a range of four years, two months, and one day to six years. Considering the prevailing circumstances, this Court deems it proper to impose the penalty of four years, nine months, and 11 days as minimum, to six years and nine months, as maximum term of imprisonment.

In line with this Court's ruling in *San Juan*, Rowena is held liable to pay AAA262122 PHP 20,000.00 as moral damages on account of the psychological abuse she suffered. This shall earn interest at the rate of 6% per annum from the finality of this Decision until full payment.

<sup>39</sup> *Id.* at 122.

<sup>40</sup> *Id.* at 55.

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**ACCORDINGLY**, the instant Petition is **DENIED**. The Amended Decision dated June 21, 2022 of the Court of Appeals in CA-G.R. CR No. 01784-MIN is **AFFIRMED with MODIFICATION**. Petitioner Rowena B. Plasan is **GUILTY** of violation of Section 10(a), in relation to Section 3(b)(1) of Republic Act No. 7610.

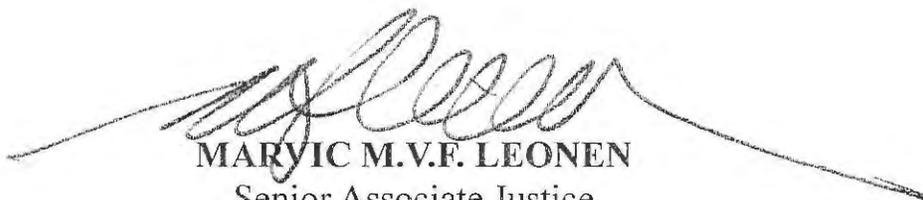
Rowena B. Plasan is **SENTENCED** to suffer imprisonment for a period of four years, nine months, and 11 days as minimum, to six years, and nine months, as maximum. She is likewise **ORDERED** to **PAY** AAA262122 the amount of PHP 20,000.00 as moral damages.

The monetary award shall earn interest at the rate of 6% per annum reckoned from the finality of this Decision until full payment.

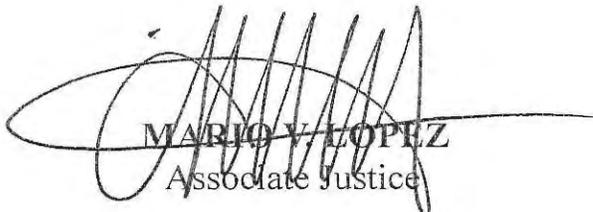
**SO ORDERED.**

  
**JHOSEP Y. LOPEZ**  
Associate Justice

**WE CONCUR:**

  
**MARYIC M.V.F. LEONEN**  
Senior Associate Justice

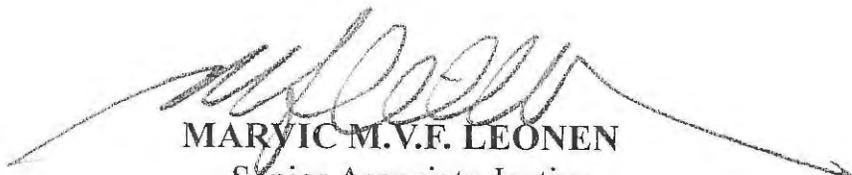
(on official business)  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**MARIO V. LOPEZ**  
Associate Justice

  
**ANTONIO T. KHO, JR.**  
Associate Justice

**ATTESTATION**

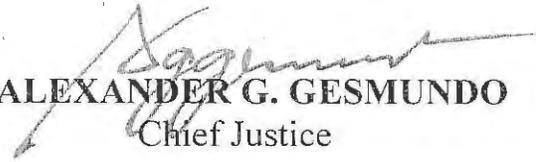
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARYIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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