



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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SECOND DIVISION

**LENIZA REYES y G.R. No. 229380**  
**CAPISTRANO,**

Petitioner, Present:

- versus -

**PEOPLE OF THE**  
**PHILIPPINES,**

Respondent.

CARPIO, J., Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

Promulgated:

06 JUN 2018

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**DECISION**

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>1</sup> filed by petitioner Leniza Reyes y Capistrano (Reyes) assailing the Decision<sup>2</sup> dated May 20, 2016 and the Resolution<sup>3</sup> dated January 11, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 36821, which affirmed the Decision<sup>4</sup> dated June 16, 2014 of the Regional Trial Court of Binangonan, Rizal, Branch 67 (RTC) in Crim. Case No. 12-0627 finding Reyes guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165,<sup>5</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

<sup>1</sup> Rollo, pp. 11-29.

<sup>2</sup> Id. at 33-46. Penned by Associate Justice Danton Q. Bueser with Associate Justices Apolinario D. Bruselas, Jr. and Renato C. Francisco concurring.

<sup>3</sup> Id. at 48-49.

<sup>4</sup> Id. at 68-69. Penned by Presiding Judge Dennis Patrick Z. Perez.

<sup>5</sup> Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

### The Facts

This case stemmed from an Information<sup>6</sup> filed before the RTC charging Reyes with Illegal Possession of Dangerous Drugs, defined and penalized under Section 11, Article II of RA 9165, the accusatory portion of which states:

That on or about the 6<sup>th</sup> day of [November] 2012 in the Municipality of Cardona, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did, then and there willfully, unlawfully and knowingly possess and have in her custody and control 0.04 gram of white crystalline substance contained in one (1) heat-sealed transparent plastic sachet which substance was found positive to the test for Methamphetamine Hydrochloride, which is a dangerous drug, in violation of the above cited law.

CONTRARY TO LAW.<sup>7</sup>

The prosecution alleged that at around eight (8) o'clock in the evening of November 6, 2012, a group of police officers from Cardona, Rizal, including Police Officer 1 (PO1) Jefferson Monteras (PO1 Monteras), was patrolling the diversion road of Barangay Looc, Cardona, Rizal when two (2) teenagers approached and informed them that a woman with long hair and a dragon tattoo on her left arm had just bought *shabu* in Barangay Mambog. After a few minutes, a woman, later identified to be Reyes, who matched the said description and smelled like liquor passed by the police officers. The latter asked if she bought *shabu* and ordered her to bring it out. Reyes answered, "*Di ba bawal kayong magkapkap ng babae?*" and at that point, turned her back, pulled something out from her breast area and held a small plastic sachet on her right hand.<sup>8</sup> PO1 Monteras immediately confiscated the sachet and brought it to the police station where he marked it with "LRC-1." Thereat, he prepared the necessary documents, conducted the inventory and photography before Barangay Captain Manolito Angeles.<sup>9</sup> Thereafter, PO1 Monteras proceeded to the Rizal Provincial Crime Laboratory and turned over the seized item for examination to Police Senior Inspector Beaune Villaraza (PSI Villaraza), who confirmed<sup>10</sup> that the substance inside the sachet tested positive for 0.04 gram of methamphetamine hydrochloride or *shabu*, a dangerous drug.<sup>11</sup>

For her part, Reyes denied the charges, claiming that the incident happened on November 5, 2012 and not November 6. On said date, she came from a drinking spree and was about to board a jeepney, when a man

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

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

<sup>8</sup> See TSN September 4, 2013, pp. 4-6.

<sup>9</sup> See id. at 6-10.

<sup>10</sup> See Chemistry Report Number: D-521-12 dated November 6, 2016; records, p. 11.

<sup>11</sup> See *rollo*, pp. 35-36.

approached and asked if she knew a certain person. After answering in the negative, she rode the jeepney until it was blocked by two (2) civilian men in motorcycles whom she identified to be one PO1 Dimacali. The latter ordered her to alight and bring out the *shabu* in her possession which she denied having. She was then brought to the police station where the police officers extorted from her the amount of ₱35,000.00 in exchange for her freedom. But since she failed to give the money, the police officers took her to Taytay for inquest proceedings.<sup>12</sup>

### The RTC Ruling

In a Decision<sup>13</sup> dated June 16, 2014, the RTC found Reyes guilty beyond reasonable doubt of illegal possession of 0.11 gram of *shabu* defined and penalized under Section 11, Article II of RA 9165. Accordingly, she was sentenced to suffer the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to thirteen (13) years, as maximum, and to pay a fine of ₱300,000.00, with an order for her immediate arrest.<sup>14</sup>

The RTC ruled that the prosecution was able to prove that Reyes was validly arrested and thereupon, found to be in possession of *shabu*, which she voluntarily surrendered to the police officers upon her arrest. Likewise, it observed that the chain of custody of the seized item was sufficiently established through the testimony of PO1 Monteras, which was not ill-motivated.<sup>15</sup>

Aggrieved, Reyes appealed<sup>16</sup> to the CA.

### The CA Ruling

In a Decision<sup>17</sup> dated May 20, 2016, the CA affirmed Reyes's conviction for the crime charged.<sup>18</sup> It held that the search made on Reyes's person yielding the sachet of *shabu* was valid as she was caught *in flagrante delicto* in its possession and was legally arrested on account thereof.<sup>19</sup> The CA likewise found substantial compliance with the chain of custody rule and that the integrity and evidentiary value of the confiscated item were properly preserved.<sup>20</sup>

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<sup>12</sup> See *id.* at 36-37.

<sup>13</sup> *Id.* at 68-69.

<sup>14</sup> *Id.* at 69.

<sup>15</sup> See *id.*

<sup>16</sup> See Notice of Appeal dated July 9, 2014; records, p. 174.

<sup>17</sup> *Id.* at 33-46.

<sup>18</sup> *Id.* at 44.

<sup>19</sup> See *id.* at 38-40.

<sup>20</sup> See *id.* at 40-43.

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However, it corrected the quantity of *shabu* stated in the RTC's dispositive portion to 0.04 gram in order to conform with the findings of PSI Villaraza and accordingly, modified the penalty imposed to twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum.<sup>21</sup>

Hence, this appeal.

### The Issue Before the Court

The issue for the Court's resolution is whether or not Reyes's conviction for Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 should be upheld.

### The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>22</sup> "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."<sup>23</sup>

"Section 2,<sup>24</sup> Article III of the 1987 Constitution mandates that a **search and seizure must be carried out through or on the strength of a judicial warrant predicated upon the existence of probable cause, absent which, such search and seizure [become] 'unreasonable' within the meaning of said constitutional provision.** To protect the people from unreasonable searches and seizures, Section 3 (2),<sup>25</sup> Article III of the 1987 Constitution provides that **evidence obtained from unreasonable**

<sup>21</sup> See *id.* at 43-44.

<sup>22</sup> See *People v. Dahil*, 750 Phil. 212, 225 (2015).

<sup>23</sup> *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

<sup>24</sup> Section 2, Article III of the 1987 Constitution states:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

<sup>25</sup> Section 3 (2), Article III of the 1987 Constitution states:

Section 3. x x x.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

**searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.** In other words, evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree.<sup>26</sup>

One of the recognized exceptions to the need [of] a warrant before a search may be [e]ffected is a search incidental to a lawful arrest.<sup>[27]</sup> **In this instance, the law requires that there first be a lawful arrest before a search can be made – the process cannot be reversed.**<sup>28</sup>

A lawful arrest may be effected with or without a warrant. With respect to the latter, the parameters of Section 5, Rule 113 of the Revised Rules of Criminal Procedure should – as a general rule – be complied with:

Section 5. *Arrest without warrant; when lawful.* — A peace officer or a private person may, without a warrant arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with Section 7 of Rule 112.

The aforementioned provision identifies three (3) instances when warrantless arrests may be lawfully effected. These are: (a) an arrest of a suspect *in flagrante delicto*; (b) an arrest of a suspect where, based on personal knowledge of the arresting officer, there is probable cause that said suspect was the perpetrator of a crime which had just been committed; and (c) an arrest of a prisoner who has escaped from custody serving final judgment or temporarily confined during the pendency of his case or has escaped while being transferred from one confinement to another.<sup>29</sup>

<sup>26</sup> See *Miguel v. People*, G.R. No. 227038, July 31, 2017, citing *Sindac v. People*, 794 Phil. 421, 428 (2016); further citation omitted.

<sup>27</sup> See Section 13, Rule 126 of the Rules of Court.

<sup>28</sup> See *Miguel v. People*, G.R. No. 227038, *supra* note 26, citing *Sindac v. People*, *supra* note 26.

<sup>29</sup> See *id.* See also *Comerciante v. People*, 764 Phil. 627, 634-635 (2015).

In warrantless arrests made pursuant to Section 5 (a), Rule 113, two (2) elements must concur, namely: (a) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (b) such overt act is done in the presence or within the view of the arresting officer. On the other hand, Section 5 (b), Rule 113 requires for its application that at the time of the arrest, an offense had in fact just been committed and the arresting officer had personal knowledge of facts indicating that the accused had committed it.<sup>30</sup>

**In both instances, the officer's personal knowledge of the fact of the commission of an offense is essential.** [The scenario under] Section 5 (a), Rule 113 of the Revised Rules of Criminal Procedure [contemplates that] the officer himself witnesses the crime; while in Section 5 (b) of the same, [the officer] knows for a fact that a crime has just been committed."<sup>31</sup>

Essentially, the validity of this warrantless arrest requires compliance with the overt act test, showing that "**the accused x x x exhibit an overt act within the view of the police officers suggesting that [she] was in possession of illegal drugs at the time [she] was apprehended.**"<sup>32</sup> Absent any overt act showing the commission of a crime, the warrantless arrest is rendered invalid, as in a case where a person was apprehended for merely carrying a bag and traveling aboard a jeepney without acting suspiciously.<sup>33</sup> Similarly, in *People v. Racho*,<sup>34</sup> a search based solely on a tip describing one of the passengers of a bus was declared illegal, since at the time of apprehension, the said accused was not "committing a crime in the presence of the police officers," nor did he commit a crime or was about to commit one.<sup>35</sup>

In this case, Reyes argues that no valid warrantless arrest took place as she did not do anything as to rouse suspicion in the minds of the arresting officers that she had just committed, was committing, or was about to commit a crime when she was just passing by.<sup>36</sup> During cross-examination, PO1 Monteras revealed:

[Atty. Cynthia D. Iremedio]: Mister Witness these two youngsters, the only information that they gave you is that there is a woman with a tattoo?

[PO1 Monteras]: Yes ma'am.

Q: No further description regarding this woman was given to you?

<sup>30</sup> See *Miguel v. People*, id. See also *Veridiano v. People*, G.R. No. 200370, June 7, 2017; and *Comerciante v. People*, id. at 635, citing *People v. Villareal*, 706 Phil. 511, 517-518 (2013).

<sup>31</sup> See *Miguel v. People*, id. See also *Comerciante v. People*, id.

<sup>32</sup> See *Veridiano v. People*, supra note 30.

<sup>33</sup> See *People v. Cogaed*, 740 Phil. 212 (2014).

<sup>34</sup> 640 Phil. 669 (2010).

<sup>35</sup> See id. at 678-682.

<sup>36</sup> See *rollo*, pp. 20-21.

A: Long haired and with tattoo on the left arm ma'am.

Q: And no description of the tattoo on her left hand?

A: None ma'am.

COURT: What is the tattoo on her left arm?

A: I think it was a Dragon sir.

Q: These two persons did not mention to you the name of the accused?

A: Yes ma'am.

Q: Aside from those description, you will agree with me that this long hair and a dragon tattoo can be possessed by any other person aside from the accused?

A: Yes ma'am.

x x x x

Q: Now Mister Witness you did not conduct further investigation on these two persons?

A: Not anymore ma'am.

x x x x

Q: Now, Mister Witness, can you describe to us when you saw this accused?

A: While we were at the corner of the Diversion Road we saw a female persons (sic) coming towards us who fits the description given by the two teenagers ma'am.

Q: And despite the description, **this accused merely passes in front of you and did nothing wrong against you?**

A: Yes ma'am.

x x x x

Q: But when you greeted her "good evening" there is nothing unusual with this accused?

A: She smelled of liquor ma'am.

Q: **She was not holding anything or acting in a suspicious manner which will elicit a response from you?**

A: None ma'am.

x x x x<sup>37</sup> (Emphases and underscoring supplied)

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<sup>37</sup> TSN, September 4, 2013, pp. 12-15.

On the basis of the foregoing, the Court finds that no lawful arrest was made on Reyes. PO1 Monteras himself admitted that Reyes passed by them without acting suspiciously or doing anything wrong, except that she smelled of liquor.<sup>38</sup> As no other overt act could be properly attributed to Reyes as to rouse suspicion in the mind of PO1 Monteras that she had just committed, was committing, or was about to commit a crime, the arrest is bereft of any legal basis. As case law demonstrates, the act of walking while reeking of liquor *per se* cannot be considered a criminal act.<sup>39</sup>

Neither has the prosecution established the conditions set forth in Section 5 (b), Rule 113, particularly, that the arresting officer had personal knowledge of any fact or circumstance indicating that the accused had just committed a crime. “Personal knowledge” is determined from the testimony of the witnesses that there exist reasonable grounds to believe that a crime was committed by the accused.<sup>40</sup> As ruled by the Court, “[a] hearsay tip by itself does not justify a warrantless arrest. Law enforcers must have personal knowledge of facts, based on their observation, that the person sought to be arrested has just committed a crime.”<sup>41</sup> In this case, records failed to show that PO1 Monteras had any personal knowledge that a crime had been committed by Reyes, as in fact, he even admitted that he merely relied on the two (2) teenagers’ tip and that, everything happened by “chance.”<sup>42</sup> Surely, to interpret “personal knowledge” as to encompass unverified tips from strangers would create a dangerous precedent and unnecessarily stretch the authority and power of police officers to effect warrantless arrests, rendering nugatory the rigorous requisites under Section 5 (b), Rule 113.<sup>43</sup>

Moreover, the Court finds the version of the prosecution regarding the seizure of the subject item as lacking in credence. To recapitulate, the prosecution, through the testimony of PO1 Monteras, claimed that when the police officers asked Reyes if she purchased *shabu*, she turned her back and voluntarily showed the plastic sachet containing the same which she retrieved from her brassiere. According to jurisprudence, the issue of credibility of a witness’s testimony is determined by its conformity with knowledge and consistency with the common experience of mankind.<sup>44</sup> As the Court observes, it is rather contrary to ordinary human experience for a person to willfully exhibit incriminating evidence which would result in his or her conviction for a crime, absent any impelling circumstance which would prompt him or her to do so.

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<sup>38</sup> See *id.* at 14-15.

<sup>39</sup> See *People v. Villareal*, *supra* note 30, at 519-520.

<sup>40</sup> See *People v. Tುದುದ*, 458 Phil. 752, 773-778 (2003).

<sup>41</sup> See *Veridiano v. People*, G.R. No. 200370, June 7, 2017.

<sup>42</sup> See TSN, September 4, 2013, p. 9.

<sup>43</sup> See *People v. Villareal*, *supra* note 30, at 521.

<sup>44</sup> See *Medina, Jr. v. People*, 724 Phil. 226, 238 (2014). See also *Flores v. People*, 705 Phil. 119, 136 (2013); *People v. De Guzman*, 690 Phil. 701, 712-713 (2012); and *People v. San Juan*, 383 Phil. 689, 703 (2000).



In addition, the Court notes the inconsistencies in the claim of the Office of the Solicitor General (OSG) that Reyes consented to the search when she voluntarily showed the sachet of *shabu* to the police officers. In their Comment,<sup>45</sup> the OSG stated that at the time of arrest, Reyes was so intoxicated that she “simply let her senses down” and showed the *shabu* to PO1 Monteras;<sup>46</sup> but later, in the same Comment, the OSG argued that Reyes was actually “in her right senses when she reminded the police officers” that they were not allowed to frisk a woman.<sup>47</sup> These material inconsistencies clearly render suspect the search conducted on Reyes’s person and likewise, destroy the credibility of the police officers who testified against Reyes.<sup>48</sup> In order to deem as valid a consensual search, it is required that the police authorities expressly ask, and in no uncertain terms, **obtain the consent of the accused to be searched and the consent thereof established by clear and positive proof,**<sup>49</sup> which were not shown in this case.

In fine, there being no lawful warrantless arrest, the sachet of *shabu* purportedly seized from Reyes on account of the search is rendered inadmissible in evidence for being the proverbial fruit of the poisonous tree.<sup>50</sup> And since the *shabu* is the very *corpus delicti* of the crime charged, Reyes must necessarily be acquitted and exonerated from criminal liability.

Besides, the Court finds the police officers to have committed unjustified deviations from the prescribed chain of custody rule under Section 21, Article II of RA 9165, through their admission that only the Barangay Captain was present during the marking and inventory of the seized items.<sup>51</sup> Records are further bereft of any showing that efforts were made by the police officers to secure the presence of the other necessary personalities under the law or provide any justification for their absence, which could have excused their leniency in strictly complying with the said procedure.<sup>52</sup> Section 21, Article II of RA 9165, prior to its amendment by RA 10640,<sup>53</sup> requires, among others, that the apprehending team shall **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official** who shall be required to sign the copies of the inventory and be given a copy of the

<sup>45</sup> Dated August 29, 2017. *Rollo*, pp. 125-139.

<sup>46</sup> See *id.* at 129.

<sup>47</sup> See *id.* at 133.

<sup>48</sup> See *People v. Emoy*, 395 Phil. 371, 383 (2000).

<sup>49</sup> *People v. Nuevas*, 545 Phil. 356, 376-377 (2007).

<sup>50</sup> See *People v. Manago*, G.R. No. 212340, August 17, 2016, 801 SCRA 103, 112.

<sup>51</sup> See TSN, September 4, 2013, pp. 8 and 17.

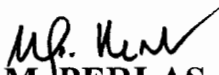
<sup>52</sup> See Section 21 (a), Article II of the IRR of RA 9165. See also *People v. Ceralde*, G.R. No. 228894, August 7, 2017.

<sup>53</sup> Entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE ‘COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,’” approved on July 15, 2014.

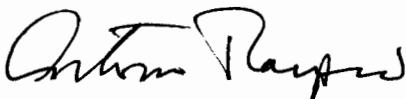
same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.<sup>54</sup> It is well-settled that unjustified non-compliance with the chain of custody procedure would result in the acquittal of the accused,<sup>55</sup> as in this case.

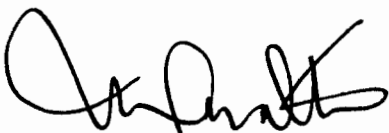
**WHEREFORE**, the petition is **GRANTED**. The Decision dated May 20, 2016 and the Resolution dated January 11, 2017 of the Court of Appeals in CA-G.R. CR No. 36821 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Leniza Reyes y Capistrano is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause her immediate release, unless she is being lawfully held in custody for any other reason.

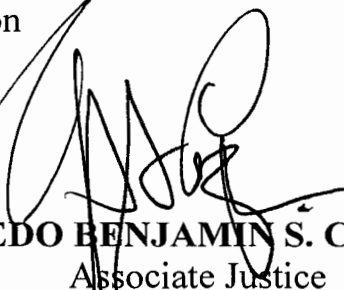
**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

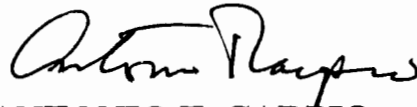
  
**ANDRES B. REYES, JR.**  
Associate Justice

<sup>54</sup> See Section 21 (1) and (2), Article II of RA 9165.

<sup>55</sup> See *People v. Manansala*, G.R. No. 229092, February 21, 2018. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

**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.



**ANTONIO T. CARPIO**

Senior Associate Justice

(Per Section 12, Republic Act No. 296,  
The Judiciary Act of 1948, as amended)