



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC OF THE
PHILIPPINES,

Petitioner,

- versus -

ALVIN C. DIMARUCOT and
NAILYN TAÑEDO-DIMARUCOT,
Respondents.

G.R. No. 202069

Present:

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

Promulgated:

07 MAR 2018

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DECISION

CAGUIOA, J.:

The Case

This is a Petition for Review on *Certiorari*¹ (Petition) filed under Rule 45 of the Rules of Court (Rules) against the Decision² dated July 29, 2011 (Assailed Decision) and Resolution³ dated May 24, 2012 (Assailed Resolution) in CA-G.R. SP No. 116572 rendered by the Court of Appeals (CA) Sixteenth Division and Former Sixteenth Division, respectively.

The Assailed Decision and Resolution stem from the following orders⁴ rendered by the Regional Trial Court of Guimba, Nueva Ecija, Branch 33 (RTC) against petitioner Republic of the Philippines (Republic) in Civil Case No. 1527-G, to wit:

1. The Order⁵ dated August 13, 2010 (August 2010 RTC Order) denying the Motion for Reconsideration of the Decision⁶ dated July 2, 2010

* Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

¹ *Rollo*, pp. 21-92.

² Id. at 95-107. Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Francisco P. Acosta and Angelita A. Gacutan concurring.

³ Id. at 119-123.

⁴ Id. at 151, 154. Penned by Judge Ismael P. Casabar.

⁵ Id. at 151.

⁶ Id. at 136-139.

rendered by the RTC (RTC Decision) which, in turn, declared the marriage between respondents Alvin C. Dimarucot (Alvin) and Nailyn Tañedo-Dimarucot (Nailyn) (collectively, Respondents) null and void; and

2. The Order⁷ dated September 13, 2010 (September 2010 RTC Order) denying due course to the Republic's Notice of Appeal⁸ dated September 1, 2010.

The Facts

Respondents met sometime in 2002 and became friends.⁹ This friendship immediately progressed and turned into an intimate romantic relationship,¹⁰ leading to Nailyn's pregnancy in March 2003. Two months later, the Respondents wed in civil rights on May 18, 2003.¹¹

Nailyn gave birth to the Respondents' first child, Ayla Nicole, on November 11, 2003.¹² Years later, on December 13, 2007, Nailyn gave birth to Respondents' second child, Anyelle.¹³

It appears, however, that Respondents' whirlwind romance resulted in a problematic marriage, as Alvin filed a Petition for Declaration of Absolute Nullity of Marriage (RTC Petition) before the RTC on September 22, 2009.¹⁴

In the RTC Petition, Alvin alleged that Nailyn suffers from psychological incapacity which renders her incapable of complying with the essential obligations of marriage.¹⁵ Hence, Alvin prayed that his marriage with Nailyn be declared null and void pursuant to Article 36 of the Family Code.¹⁶

The Provincial Prosecutor was deputized by the Office of the Solicitor General (OSG) to assist in the case.¹⁷

On July 2, 2010, the RTC, through Presiding Judge Ismael P. Casabar (Judge Casabar), rendered a Decision declaring Respondents' marriage null and void. The pertinent portions of the RTC Decision read:

⁷ Id. at 154.

⁸ Id. at 152-153.

⁹ Id. at 185-186.

¹⁰ Id. at 186.

¹¹ Id. at 136.

¹² Id.

¹³ Id.

¹⁴ Id. at 124-131.

¹⁵ Id. at 127-128.

¹⁶ Id. at 129.

¹⁷ Id. at 161.



From the evidence adduced by [Alvin], this court is convinced that [Nailyn] is psychologically incapacitated to perform her basic marital obligations. Her being a loose-spender, overly materialistic and her complete disregard of the basic foundation of their marriage[—] to live together, observe mutual love, respect and fidelity and render mutual help and support are manifestations of her psychological incapacity to comply with the basic marital duties and responsibilities. Her incapacity is grave, permanent and incurable. It existed from her childhood and became so manifest after the celebration of their marriage.

WHEREFORE, judgment is rendered declaring the marriage between [Alvin] and [Nailyn] void on the ground of psychological incapacity on the part of [Nailyn] to fulfill the basic marital obligations.¹⁸

On **July 27, 2010**, the Republic, through the OSG, filed a Motion for Reconsideration¹⁹ (MR) of even date, alleging that “[Alvin] failed to prove the **juridical antecedence, gravity and incurability** of his wife’s alleged psychological incapacity.”²⁰ However, the Notice of Hearing annexed to the MR erroneously set the same for hearing on **July 6, 2010** (instead of **August 6, 2010** as the OSG later explained²¹).²²

The RTC denied the Republic’s MR through the August 2010 RTC Order, which reads in part:

Acting on the [MR] filed by the [OSG] through State Solicitor Josephine D. Arias and it appearing that the motion was set for hearing on July 6, 2010 yet the motion itself was filed only on July 27, 2010.

This Court is at loss as to when the instant motion should be heard.

Under these circumstances, the instant motion is considered one which is not set for hearing and therefore, a mere scrap of paper, and as such it presents no question which merits the attention and consideration of the court. It is not even a motion for it does not comply with the rules and hence, the clerk has no right to receive it.

Failure to comply with the requirements of Rule 15, sections 4, 5 and 6 is a fatal flaw.

WHEREFORE, for lack of merit, the motion is denied.²³ (Citations omitted)

Thus, on September 1, 2010, the Republic filed a Notice of Appeal of even date, which was denied in the September 2010 RTC Order. Said order reads, in part:

¹⁸ Id. at 199.

¹⁹ Id. at 200-208.

²⁰ Id. at 201; emphasis and underscoring in the original.

²¹ Id. at 57-58.

²² Id. at 151.

²³ Id.

Record shows that the [MR] did not comply with the requirements set forth under Rule 15, sections 4, 5 and 6 of the [Rules], in that it was not set for hearing. Said [MR] did not interrupt the running of the period of appeal. Hence, the [RTC Decision] rendered in this case attained finality.

WHEREFORE, the [Notice of Appeal] being taken out of time is hereby DISMISSED.²⁴ (Citation omitted)

Subsequently, on October 22, 2010, the Republic filed a Petition for *Certiorari*²⁵ (CA Petition) before the CA, ascribing grave abuse of discretion on the part of the RTC for issuing the August and September 2010 RTC orders.²⁶

The Republic claimed that its MR substantially complied with the requirements of Sections 4, 5 and 6 of Rule 15 governing motions.²⁷ Hence, the RTC should not have treated said MR as a mere scrap of paper solely because of the misstatement of the proposed hearing date in the Notice of Hearing appended thereto, considering that the RTC is “not without any discretion” to set the MR for hearing on a different date.²⁸

The Republic also raised, albeit in passing, that with the exception of the copy of the RTC Petition, the OSG was not furnished with other orders, legal processes and pleadings after it had deputized the Provincial Prosecutor to assist in the RTC case.²⁹

On July 29, 2011, the CA rendered the Assailed Decision denying the CA Petition.

The CA held that the CA Petition warrants outright dismissal because it was filed without the benefit of a motion for reconsideration³⁰ — an indispensable requirement for the filing of a petition for *certiorari* under Rule 65.³¹ The CA further held that in any case, the Republic’s allegation that its MR substantially complied with all the requirements under Rule 15 lacks merit. Pertinent portions of the Assailed Decision read:

In a litany of cases, the [Court] already held that a motion for reconsideration, as a general rule, must have first been filed before the tribunal, board or officer against whom the writ of certiorari is sought. This is intended to afford the latter an opportunity to correct any factual or fancied error attributed to it. And while there are **exceptions** to said rule, x
x x

²⁴ Id. at 154.

²⁵ Id. at 155-182.

²⁶ Id. at 156.

²⁷ Id. at 166, 170-171.

²⁸ Id. at 167.

²⁹ Id. at 161.

³⁰ As clarified in the Assailed Resolution dated May 24, 2012, id. at 120.

³¹ *Rollo*, p. 100.

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none of the x x x exceptions attends this case since a motion for reconsideration is a **plain, speedy and adequate remedy** in the ordinary course of law, the OSG should have filed first a motion for reconsideration of the [August 2010 RTC Order] rather than merely presume that the trial court would *motu proprio* take cognizance of its (the OSG's) alleged "typographical error". It should not have prematurely filed the present petition before [the CA]. Its failure to explain or justify as to why it did not first move for reconsideration of the herein assailed [August 2010 RTC Order] deprives [the CA] of any 'concrete, compelling and valid reason' to except (sic) the Republic from the aforementioned general rule of procedure.

Even the OSG's allegation that its motion for reconsideration complied with all the requirements of Sections 4, 5 and 6, Rule 15 of the [Rules], fails to convince [the CA].

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The x x x requirements — that the notice shall be directed to the parties concerned and shall state the time and date for the hearing of the motion — are **mandatory**, so much so that **if not religiously complied with, the motion becomes *pro forma***. Indeed, as held by the RTC, a motion that does not comply with the requirements of Sections 4 and 5 of Rule 15 of the [Rules] is a **worthless piece of paper** which the clerk of court has no right to receive and which the court has no authority to act upon.

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WHEREFORE, the petition is **DISMISSED** for lack of merit.³²
(Emphasis and italics in the original)

The Republic filed a Motion for Reconsideration³³ (CA MR), arguing that the CA failed to consider that Atty. Amy Linda C. Dimarucot (Atty. Amy), the Clerk of Court of the RTC, is respondent Alvin's sibling, and that her participation in her brother's case constitutes a violation of Section 1, Rule 137 of the Rules.³⁴ The Republic further argued that the RTC should not have denied its Notice of Appeal, since appeal is precisely the proper remedy to assail the August 2010 RTC Order pursuant to Section 9, Rule 37 of the Rules and Section 20 (2) of the Rules on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.³⁵

The CA denied the CA MR in the Assailed Resolution. Therein, the CA clarified that the RTC Order adverted to in the Assailed Decision is the **September 2010 RTC Order** (denying the Republic's Notice of Appeal) and *not* the **August 2010 RTC Order** (denying the Republic's MR of the

³² Id. at 100-106.

³³ Id. at 211-218.

³⁴ Id. at 212.

³⁵ Id.

RTC Decision), as erroneously stated therein.³⁶ The Assailed Resolution did not pass upon the Republic's allegation anent Atty. Amy's alleged violation of Rule 137.

The Republic received a copy of the Assailed Resolution on May 31, 2012.³⁷

On June 15, 2012, the Republic filed a Motion for Extension of Time to File Petition,³⁸ praying for an additional period of thirty (30) days, or until July 15, 2012, within which to file its petition for review.³⁹

The Republic filed the present Petition on July 16, 2012, as July 15, 2012 fell on a Sunday.⁴⁰

On August 15, 2012, the Court issued a Resolution directing Alvin and Nailyn to file their respective comments to the Petition.⁴¹ Alvin and Nailyn filed their comments⁴² dated January 7, 2013 and December 2, 2013, respectively.

The Republic filed its Consolidated Reply⁴³ to the respondents' comments on May 7, 2014.

The Issues

The Petition calls on the Court to resolve the following issues:

1. Whether the CA erred when it caused the outright dismissal of the CA Petition because it was filed without the benefit of a prior motion for reconsideration of the September 2010 RTC Order;
2. Whether the CA erred when it affirmed the August and September 2010 RTC orders which denied the Republic's MR and subsequent Notice of Appeal on procedural grounds; and
3. Whether the CA erred when it did not pass upon Atty. Amy's alleged violation of Rule 137.

³⁶ Id. at 122.

³⁷ Id. at 24.

³⁸ Id. at 2-4.

³⁹ Id. at 3.

⁴⁰ As confirmed by the Republic's Manifestation dated July 17, 2012, id. at 13.

⁴¹ *Rollo*, p. 224.

⁴² Id. at 249-270, 292-293.

⁴³ Id. at 301-311.

The Court's Ruling

In this Petition, the Republic claims that the RTC employed a “double standard” in the application of the Rules, for while it strictly applied Rule 15 (governing motions) against the Republic, it did not apply Rule 137 (governing disqualification of judicial officers) against its Clerk of Court Atty. Amy, who participated in the RTC proceedings despite being the sister of party-respondent Alvin.⁴⁴

Proceeding therefrom, the Republic argues that in affirming the RTC orders, the CA erroneously deprived it of the opportunity to fully ventilate its objections against the RTC Decision which declared Alvin and Nailyn’s marriage null and void.⁴⁵

The Court grants the Petition.

A prior motion for reconsideration is not necessary for a petition for certiorari to prosper in cases where such motion would be useless.

It is true that this Court has ruled that “*certiorari*, as a special civil action will not lie unless a motion for reconsideration is first filed before the respondent tribunal, to allow it an opportunity to correct its assigned errors.”⁴⁶ However, this general rule is subject to well-defined exceptions, thus:

Moreover, while it is a settled rule that a special civil action for certiorari under Rule 65 will not lie unless a motion for reconsideration is filed before the respondent court; there are well-defined exceptions established by jurisprudence, such as [i] **where the order is a patent nullity, as where the court *a quo* has no jurisdiction**; [ii] where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; [iii] where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; [iv] where, under the circumstances, a motion for reconsideration would be useless; [v] where petitioner was deprived of due process and there is extreme urgency for relief; [vi] where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; [vii] where the proceedings in the lower court are a nullity for lack of due process; [viii] where the proceedings were *ex parte* or in which the petitioner had no opportunity to object; and [ix] where the issue raised is one purely of law or where public interest is involved.⁴⁷ (Citations omitted; emphasis and italics in the original)

⁴⁴ Id. at 36.

⁴⁵ Id. at 77-78.

⁴⁶ *Ermita v. Aldecoa-Delorino*, 666 Phil. 122, 132 (2011).

⁴⁷ *Philippine Bank of Communications v. Court of Appeals*, G.R. No. 218901, February 15, 2017, p. 7.

The Republic invokes the fourth exception above, and argues that the filing of a motion for reconsideration of the September 2010 RTC Order would have been useless as it was based on the earlier August 2010 RTC Order.⁴⁸ The Court agrees.

To recall, the denial of the Republic's Notice of Appeal through the September 2010 RTC Order was premised on the RTC's earlier finding that the MR was a *pro-forma* motion due to non-compliance with Rule 15. As well, it is necessary to emphasize that the September 2010 RTC Order explicitly states that the RTC Decision had "attained finality" because the Republic's MR did not toll the Republic's period to appeal.⁴⁹

Clearly, the Republic's direct resort to the CA *via certiorari* was warranted under the circumstances, as it was led to believe that seeking reconsideration of the September 2010 RTC Order would have been a useless exercise. **The CA thus erred when it caused the outright dismissal of the CA Petition solely on the basis of the Republic's failure to file a prior motion for reconsideration.**

Strict compliance with Rule 15 should have been waived in the interest of substantial justice.

The Republic concedes that it misstated the proposed hearing date in the Notice of Hearing attached to its MR. It argues, however, that this misstatement does not serve as sufficient basis to treat its MR as a mere scrap of paper, considering that said Notice of Hearing fulfilled the purpose of Rule 15, that is, **"to afford the adverse parties a chance to be heard before [the MR] is resolved by the [RTC]."**⁵⁰

The Republic's argument proceeds from the assumption that the only defect in its Notice of Hearing was the typographical error in its proposed hearing date. This is error. Reference to Sections 4, 5 and 6 of Rule 15 is in order:

SEC. 4. *Hearing of motion.* — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

⁴⁸ *Rollo*, p. 53.

⁴⁹ *Id.* at 184.

⁵⁰ *Id.* at 168; emphasis in the original.

SEC. 5. *Notice of hearing.* — The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

SEC. 6. *Proof of service necessary.* — **No written motion set for hearing shall be acted upon by the court without proof of service thereof.** (Emphasis supplied; italics in the original)

The requirements outlined in the cited provisions can be summarized as follows:

- i. Every written motion which cannot be acted upon without prejudicing the rights of the adverse party must be set for hearing;
- ii. The adverse party must be given: (a) a copy of such written motion, and (b) notice of the corresponding hearing date;
- iii. The copy of the written motion and the notice of hearing described in (ii) must be furnished to the adverse party at least three (3) days before the hearing date, unless otherwise ordered by the RTC (3-day notice rule); and
- iv. No written motion that is required to be heard shall be acted upon by the receiving court without proof of service done in the manner prescribed in (iii).

Perusal of the foregoing shows that the Republic failed to comply with the first **and** third requirements.

Notably, while the Republic furnished Alvin and Nailyn's respective counsels with copies of the MR and Notice of Hearing, the Republic did so only by registered mail.⁵¹ As a result, Alvin received notice of the Republic's MR only on August 11, 2010.⁵² Hence, even if the RTC construed the Republic's typographical error to read *August 6*, 2010 instead of July 6, 2010, the Republic would have still failed to comply with the 3-day notice rule.

To be sure, the 3-day notice rule was established *not* for the benefit of movant but for the adverse party, in order to avoid surprises and grant the latter sufficient time to study the motion and enable it to meet the arguments interposed therein.⁵³ The duty to ensure receipt by the adverse party at least three days before the proposed hearing date necessarily falls on the movant.

⁵¹ CA rollo, pp. 122-123.

⁵² Rollo, p. 251.

⁵³ See generally *Cabrera v. Ng*, 729 Phil. 544, 550 and 551 (2014).

Nevertheless, considering the nature of the case and the issues involved therein, the Court finds that relaxation of the Rules was called for. It is well settled that procedural rules may be relaxed in the interest of substantial justice. Accordingly, the “strict and rigid application, [of procedural rules] which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed.”⁵⁴

Here, the State’s policy of upholding the sanctity of marriage takes precedence over strict adherence to Rule 15, for the finality of the RTC Decision necessarily entails the permanent severance of Alvin and Nailyn’s marital ties. Hence, the RTC should have exercised its discretion, as it did have such discretion, and set the MR for hearing on a later date with due notice to the parties to allow them to fully thresh out the Republic’s assigned errors. **The CA thus erred when it affirmed the RTC in this respect.**

The Republic’s objection against Atty. Amy’s participation in the annulment case should have been raised at the first instance before the RTC.

Sections 1 and 2 of Rule 137 provide:

SECTION 1. *Disqualification of judges.* — No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity (sic) or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

SEC. 2. *Objection that judge disqualified, how made and effect.* — If it be claimed that an official is disqualified from sitting as above provided, **the party objecting to his competency may, in writing, file with the official his objection, stating the grounds therefor, and the official shall thereupon proceed with the trial, or withdraw, therefrom in accordance with his determination of the question of his disqualification.** His decision shall be forthwith made in writing and filed with the other papers in the case, but no appeal or stay shall be allowed from, or by means of, his decision in favor of his own competency, until after final judgment in the case. (Emphasis supplied; italics in the original)

Section 2, Rule 137 is clear and leaves no room for interpretation. An objection on the basis of Section 1, Rule 137 must be made in writing and

⁵⁴ *Heirs of Spouses Arcilla v. Teodoro*, 583 Phil. 540, 553 (2008).

filed before the judicial officer concerned. Thus, the Republic should have raised its objection concerning Atty. Amy's disqualification before the RTC. **Consequently, the CA was not bound to pass upon such objection, and thus, did not err in refusing to do so.**

In any case, the duty of clerks of court to disqualify themselves in accordance with the parameters set by Section 1, Rule 137 pertains to such clerks, not the courts and presiding judges they serve. Supreme Court Administrative Circular No. 58-2008⁵⁵ (SC AC No. 58-08) lends guidance:

1. Clerks of court, assistant clerks of court, deputy clerks of court and branch clerks of court in all levels shall **conduct a screening of cases now pending before their respective courts or divisions to verify and report in writing to their respective presiding judges, Chairpersons of Divisions, or in *en banc* cases, to the Presiding Justice and Chief Justice, as the case may be, if there are grounds for their disqualification in regard to the performance of their functions and duties,** under the first paragraph of Section 1, Rule 137 of the Rules of Court.⁵⁶ (Emphasis supplied)

In the absence of any showing of collusion between Judge Casabar and Atty. Amy, the latter's failure to report the circumstances requiring her disqualification cannot serve as basis to ascribe grave abuse of discretion to the former.

Nevertheless, Atty. Amy's alleged failure to observe SC AC No. 58-08, if true, cannot be countenanced. Thus, pursuant to its power of administrative supervision over all court personnel, the Court deems it appropriate to refer the Republic's allegations to the Office of the Court Administrator for appropriate action.

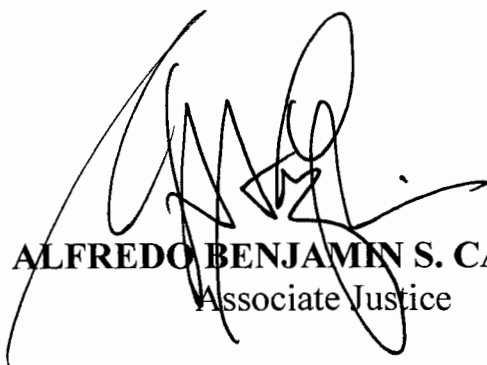
WHEREFORE, premises considered, the Petition for Review on *Certiorari* is **GRANTED**. The Assailed Decision of the Court of Appeals Sixteenth Division dated July 29, 2011 and Assailed Resolution of the Court of Appeals Former Sixteenth Division dated May 24, 2012 in CA-G.R. SP No. 116572 are hereby **REVERSED AND SET ASIDE**. The Regional Trial Court, Branch 33 in Guimba, Nueva Ecija is **DIRECTED** to give due course to the Republic's Notice of Appeal dated September 1, 2010 and to elevate the case records to the Court of Appeals for review.

Let a copy of this Decision be furnished to the Office of the Court Administrator for its information and appropriate action.

⁵⁵ *Implementation of Section 1, Rule 137 of the Rules of Court, as amended by the En Banc Resolution dated June 3, 2008, in A.M. No. 08-4-1-SC, re: disqualification of all clerks of court, assistant clerks of court, deputy clerks of court and branch clerks of court, in all levels in the performance of their respective functions and duties, June 3, 2008.*

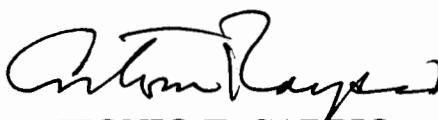
⁵⁶ *Id.*

SO ORDERED.

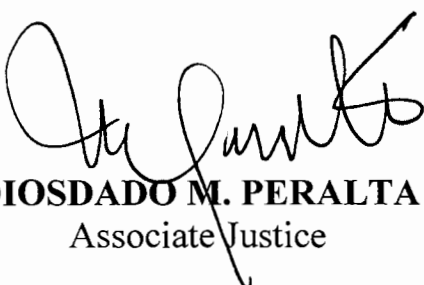


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

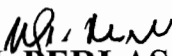
WE CONCUR:




ANTONIO T. CARPIO
Acting Chief Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



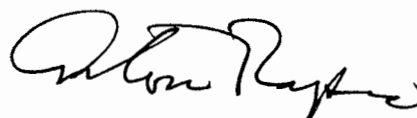
ESTELA M. BERLAS-BERNABE
Associate Justice



ANDRES B. REYES, JR.
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.



ANTONIO T. CARPIO
Acting Chief Justice