

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

SECOND DIVISION

THE PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 235785

Present:

*CARPIO, Chairperson,
CAGUIOA,
REYES, J., JR.
LAZARO-JAVIER, and
ZALAMEDA, JJ.

- versus -

JOEY NABUA y CAMPOS,
Accused-Appellant.

Promulgated:

14 AUG 2019

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DECISION

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision¹ dated August 17, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08586 entitled "*People of the Philippines v. Jose Nabua y Campos*," affirming the conviction of Jose Nabua for violation

* On official leave.

¹ Penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Leoncia R. Dimagiba and Henri Jean Paul B. Inting (now a member of this Court) all members of the Twelfth Division, *rollo*, pp. 2-18.

of Section 5, Article II of Republic Act (RA) No. 9165.²

The Proceedings Before the Trial Court

The Charge

By Information³ dated October 22, 2013, in Criminal Case No. A-6360, appellant Jose Nabua and his co-accused Paul Saturnino and Gideon Baltazar were charged with violation of Section 5, Article II of RA 9165, *viz*:

That on or about the 20th day of October 2013, in the Municipality of Rosario, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually aiding each other, did then and there willfully, unlawfully and knowingly sell and deliver to a police officer who acted as a “poseur buyer” a heat sealed plastic sachet containing “shabu” or methamphetamine hydrochloride for and in consideration of P500.00, more or less, without any lawful authority.

CONTRARY TO LAW.

The case was raffled to the Regional Trial Court (RTC) – Branch 31, Agoo, La Union.

Accused Saturnino and Baltazar jointly filed a Motion to Dismiss on the ground that their mere presence at the alleged crime scene did not automatically make them co-conspirators in the alleged illegal sale transaction.⁴ The trial court granted⁵ the motion. Consequently, they were dropped from the charge.

The case, nonetheless, proceeded against appellant. On arraignment, he pleaded “not guilty.”⁶ Trial ensued.

During the trial, SPO1 Roberto V. Vargas, SPO1 Reynaldo B. Ofiaza, and PO1 Tony S. Fernandez, Jr., members of the Intelligence Operatives of Rosario Police Station, Rosario La Union, testified for the prosecution. The defense, on the other hand, presented appellant as its lone witness.

The Prosecution’s Evidence

SPO1 Roberto V. Vargas, SPO1 Reynaldo B. Ofiaza, and PO1 Tony S. Fernandez, Jr. identified and confirmed⁷ the contents of their Joint Affidavit

² Comprehensive Dangerous Drugs Acts of 2002.

³ Record, p. 33.

⁴ *Id.* at 39.

⁵ *Id.* at 43.

⁶ *Id.*

⁷ TSN, August 5, 2014, p. 23; TSN, October 7, 2014, pp. 7-8;

of Arrest⁸ dated October 21, 2013.

On October 20, 2013, around 5 o'clock in the afternoon, Police Chief Inspector (P/C Insp.) Orly Z. Pagaduan received a report from a confidential informant that a certain "alias Boyet" of Barangay Rabon, Rosario La Union was selling illegal drugs.⁹ P/C Insp. Pagaduan briefed the members of the Intelligence Operatives Office and organized a buy bust operation.¹⁰ SPO1 Vargas got assigned as poseur buyer while SPO1 Ofiaza and PO1 Fernandez as immediate back-up. They agreed on the pre-arranged signal: SPO1 Vargas will scratch his neck indicating the sale has been consummated.¹¹

Per SPO1 Ofiaza's instruction, the informant told appellant that he found a buyer of shabu and to meet around 5 o'clock of even date at Barangay Rabon, Rosario La Union, particularly in front of Ortega's store, for the sale transaction.¹²

The team proceeded to Brgy. Rabon at Rosario, La Union. SPO1 Ofiaza and PO1 Fernandez went inside Ortega's store while SPO1 Vargas and the informant waited for appellant outside. Appellant texted the informant that he was on his way to their meeting place. The team then saw appellant alight from a white Mitsubishi L-300 cab which halted 20 meters away from the store. Appellant walked toward SPO1 Vargas and informant.¹³

The informant introduced SPO1 Vargas to appellant as the person interested in buying shabu. Appellant asked SPO1 Vargas about the money but the latter requested to see the shabu first. Appellant then handed to SPO1 Vargas one (1) heat sealed transparent plastic sachet containing white crystalline substance. SPO1 Vargas, in turn, gave appellant buy-bust money who slipped the money to his pocket. SPO1 Vargas scratched his neck to signal the other team members that the sale had been consummated.¹⁴

PO1 Fernandez immediately closed in, informed appellant of his constitutional rights, and arrested him. Meantime, SPO1 Vargas and SPO1 Ofiaza ran toward appellant's vehicle where they saw Saturnino and Baltazar on board. The latter alighted from the vehicle and got frisked. The search, however, yielded nothing.

SPO1 Vargas also searched appellant and recovered from the latter the buy-bust money and another sachet of suspected shabu.

At the *situs criminis*, SPO1 Vargas marked the seized plastic sachets with "RVV-1" (sachet brought from appellant) and "RVV-2" (another sachet recovered from appellant). SPO1 Vargas also prepared an inventory of the

⁸ Record, pp. 1-3.

⁹ CA *rollo*, p. 78.

¹⁰ Record, p. 1.

¹¹ *Id.*

¹² TSN, February 24, 2015, pp. 4-7.

¹³ CA *rollo*, p. 79.

¹⁴ Record, p. 1.

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seized items in the presence of Barangay Captain Eduardo Peralta and two (2) Barangay Tanods Edgar Cabunias and Victor Lopez.

SPO1 Vargas, thereafter, brought the seized items to the Regional Crime Laboratory Office 1, Parian, San Fernando City, La Union for examination.¹⁵ Forensic Chemist PSI Ma. Theresa Amor C. Manuel received the request and specimens and conducted a qualitative examination thereon. Per Report No. D-107-2013, the specimens were found positive for methamphetamine hydrochloride, a dangerous drug.¹⁶

The prosecution submitted the following evidence: 1) two (2) plastic sachets marked as RVV-1 (sold shabu) with date 10-20-2013 and RVV-2 (possessed shabu) with date 10-20-2013;¹⁷ 2) buy bust money consisting of five (5) twenty peso bills with serial numbers XB087542, RE282571, ND526434, EC527233, and UW00911, and four (4) one hundred peso bills with serial numbers DA957022, DA880462, FD881192 and BK539242;¹⁸ 3) Certificate of Inventory dated October 20, 2013;¹⁹ 4) Pictures taken during the inventory;²⁰ 5) Request for Laboratory Examination;²¹ 6) Initial and Final Laboratory Report;²² 7) Certificate of Coordination;²³ 8) Chain of Custody Form;²⁴ 9) Joint Affidavit of Arrest;²⁵ and 10) Police Report.²⁶

The Defense's Evidence

Appellant testified that on October 20, 2013, from 8 o'clock in the morning until 5 o'clock in the afternoon, he was performing his duty as traffic enforcer in San Fabian, Pangasinan.²⁷

On his way home, Saturnino and Baltazar invited him to buy pigeons. They boarded a white L-300 white van on their way to Barangay Rabon, Rosario.²⁸ His companions asked him to alight from the vehicle and to look for the person selling pigeons.²⁹ As he walked toward the store, he saw SPO1 Vargas in civilian clothes. SPO1 Vargas asked him if he was "Boyot" to which he said "no."³⁰ SPO1 Vargas suddenly poked a gun at him while two (2) other men arrested him.

¹⁵ TSN, November 11, 2014, p. 13.

¹⁶ Record, pp. 6 and 24.

¹⁷ *Id.* at 6.

¹⁸ Record, pp. 25-28, Exhibit B.

¹⁹ *Id.* at 17-19, Exhibit C.

²⁰ *Id.* at 29-31a, Exhibit D.

²¹ *Id.* at 6, Exhibit E.

²² *Id.* at 24, Exhibit F.

²³ *Id.* at 23, Exhibit H.

²⁴ *Id.* at 10.

²⁵ *Id.* at 1-3, Exhibit I.

²⁶ *Id.* at 5, Exhibit J.

²⁷ TSN, June 30, 2015, pp. 3 and 5.

²⁸ *Id.* at 5.

²⁹ *Id.* at 6-7.

³⁰ *Id.* at 7.

He was brought outside the store where the seized items were marked and inventoried in the presence of two barangay tanods Edgar Cabunias and Victor Lopez, and the barangay captain Eduardo Peralta. Police Inspector Edgar Carlos took photographs during the marking and inventory.³¹ Thereafter, he and his companions were handcuffed, brought to Rosario Police Station,³² and charged with violation of Section 5, Article II of RA 9165.

The Trial Court's Ruling

By Decision³³ dated July 13, 2016, the trial court found appellant guilty as charged, *viz*:

WHEREFORE, premises considered, judgment is hereby rendered finding accused JOEY NABUA y CAMPOS **GUILTY** beyond reasonable doubt of the crime of violation of Section 5, Article II of Republic Act No. 9165 (Sale of Dangerous Drug), and is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and ordered to pay a fine of **FIVE HUNDRED THOUSAND PESOS (P500,000.00)**.

The dangerous drugs and drug paraphernalia obtained from the persons of the accused and subject of the Information are hereby ordered delivered forthwith to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.³⁴

It ruled there was a valid buy-bust operation resulting in the purchase of 0.0289 gram of "shabu" (marked RVV-1). The prosecution had established the integrity and identity of the *corpus delicti* from the time it was seized until it was presented as evidence in court. It further held the presence of the media and DOJ representatives for the inventory and photograph of seized items was not indispensable for the prosecution of the crime.³⁵

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court when it allegedly overlooked fatal omissions of the police team during the supposed buy-bust operation, *viz*: the marking was not done immediately upon the seizure of the alleged dangerous drug; and the seized items were not placed in a separate container nor sealed before its transfer to the crime laboratory. Also, except for her receipt of the request for laboratory examination and the results of the same, there was no showing how forensic chemist PSI Manuel actually

³¹ TSN, August 5, 2014, p. 17.

³² *Id.* at p. 10.

³³ *CA rollo*, pp. 50-64; Penned by Executive Judge Romeo M. Atillo, Jr.

³⁴ *Id.* at 64.

³⁵ *Id.* at 62.

handled the specimen before, during, and after the examination. Therefore, there was no proof that the specimen received for chemical examination was the same substance tested, stored, and presented in court as evidence.³⁶

For its part, the People, through Assistant Solicitor General Derek R. Puertollano and Associate Solicitor Andres S. Jose Jr., countered in the main: 1) the elements of illegal sale of dangerous drugs were all sufficiently established; 2) the presumption of regularity in the performance of official functions and duties in favor of the buy-bust team prevails over appellant's denial; 3) the marking, inventory, and photography in the presence of appellant and the three (3) barangay officials substantially complied with the requirements of the chain of custody rule; and 4) the integrity and evidentiary value of seized items were properly preserved.³⁷

The Court of Appeals' Ruling

By Decision³⁸ dated August 17, 2017, the Court of Appeals affirmed. It held that there was a valid buy-bust operation leading to appellant's arrest and confiscation of the dangerous drugs in question. It also found that the arresting officers substantially complied with the chain of custody rule and the integrity of the *corpus delicti* was duly preserved.

The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for his acquittal.

For the purpose of this appeal, both appellant and the People adopted, in lieu of supplemental briefs, their respective briefs filed before the Court of Appeals.³⁹

Issue

Did the Court of Appeals err when it affirmed appellant's conviction for violation of Section 5, Article II of RA 9165?

³⁶ *Id.* at 39-45.

³⁷ *Id.* at 81-87.

³⁸ *Rollo*, pp. 2-18.

³⁹ The People's Manifestation, *rollo*, pp. 30-32; Appellant's Manifestation, *rollo*, pp. 26-27.

Ruling

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.⁴⁰

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:⁴¹ *first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.⁴²

This is the chain of custody rule. It came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.⁴³

Section 21 of RA 9165 prescribes the standard in preserving the *corpus delicti* in illegal drug cases, viz:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, **immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her 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 thereof;** (emphasis added)

⁴⁰ *People v. Barte*, 806 Phil. 533, 542 (2017).

⁴¹ As defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:

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b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

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⁴² *People v. Dahil*, 750 Phil. 212, 231 (2015)

⁴³ *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

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The Implementing Rules and Regulations of RA 9165 further commands:

Section 21. (a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, **physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her 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 thereof:** Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; **Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.** (emphases added)

Here, the inventory and photograph of seized items were only made in the presence of appellant and three barangay officials, *i.e.*, –Edgar Cabunias (barangay tanod), Victor Lopez (barangay tanod) and Eduardo Peralta (barangay chairman).⁴⁴ This fact was confirmed by SPO1 Vargas and SPO1 Ofiaza in their testimony before the trial court, thus:

SPO1 Vargas:

Q: So you were the person who also conducted the inventory?

A: yes, sir.

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Q: And who was present during the inventory you conducted?

A: Brgy. Officials of Brgy. Rabon, sir.

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Q: No representative from the DOJ?

A: None, sir.

Q: No representative from the media?

A: No, sir.

Q: Why?

⁴⁴ Record, pp. 9, 15, 17-20.

A: I do not know, sir, from our chief of police.⁴⁵
(Underscoring and emphasis supplied)

SPO1 Ofiaza:

Q: And you had been conducted (sic) several buy bust operation?

A: yes, sir.

Q: And you know very well that the requirements was that there was (sic) be a media, a DOJ representative and barangay officials?

A; Yes, sir.

Q: So from the time you decided to conduct an entrapment up to 4:30 in the afternoon you have all the time to coordinate with these agencies, is it not?

A: Yes, sir.

Q: But you testified awhile (sic) ago that you did not coordinate with the DOJ?

A: I did not coordinate with the DOJ, sir.⁴⁶

(Emphasis supplied)

Evidently, no media representative and DOJ representative were present during the inventory and photograph of the seized items. The arresting officers failed to give any justifiable explanation for the absence of these witnesses. The insulating presence of such witnesses would have preserved an unbroken chain of custody.⁴⁷ More, they failed to perform their positive duty to secure through earnest efforts the presence of these representatives. This is certainly a serious lapse of procedure.

In *People v. Abelarde*,⁴⁸ the accused was acquitted for violation of Section 5, Article II of RA 9165 because there was no evidence that the inventory and photograph of seized dangerous drugs, if at all, were done in the presence of a media representative, a DOJ representative, and an elected public official.

In *People v. Macud*,⁴⁹ the buy-bust team similarly failed to secure the presence of a media representative, a DOJ representative, and any elected public official to witness the inventory and photograph of the seized drugs. For this, the Court rendered a verdict of acquittal.

Finally in *People v. Año*,⁵⁰ the prosecution offered no explanation to

⁴⁵ TSN, August 5, 2014, pp. 12-13.

⁴⁶ TSN, February 24, 2015, pp. 23-24.

⁴⁷ See *People v. Cabezudo*, G.R. No. 232357, November 28, 2018 citing *People v. Mendoza*, 736 Phil. 749, 764 (2014).

⁴⁸ See G.R. No. 215713, January 22, 2018.

⁴⁹ See G.R. No. 219175, December 14, 2017, 849 SCRA 294, 311-312.

⁵⁰ See G.R. No. 230070, March 14, 2018.

justify the absence of representatives from the media and the DOJ during the inventory and photograph of seized dangerous drugs. The Court ruled that the unjustified gaps in the chain of custody went against the finding of guilt against the accused.

Another gap in the chain of custody happened when the seized drug was delivered to the crime laboratory. There was nothing on record here showing how the seized drug was handled before, during, and after it came to the custody of forensic chemist PSI Manuel's possession. The parties merely stipulated that PSI Manuel received the specimens and found the same positive for methamphetamine hydrochloride, a dangerous drug. But as to how PSI Manuel took precautionary steps in preserving the integrity and evidentiary value of the seized drug while it remained in her possession and prior to its presentation in court, no evidence was ever presented.

In *People v. Hementiza*,⁵¹ the Court acquitted the accused for illegal sale of drugs because records were bereft of any evidence on how the illegal drugs were brought to the court. The forensic chemist therein merely testified that she made a report confirming the substance contained in the sachets brought to her was positive for shabu. As in this case, there was no evidence how the shabu was stored, preserved, labeled or who had custody thereof before it was presented in court.

The breaches in chain of custody rule here were fatal flaws effectively destroying the integrity and evidentiary value of the *corpus delicti*.

We have clarified that a perfect chain of custody may be impossible to obtain at all times because of varying field conditions.⁵² Section 21 (a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165⁵³ offers a saving clause allowing leniency under justifiable grounds. There are twin conditions for the saving clause to apply: a) the prosecution must explain the reasons behind the procedural lapses; and, b) the integrity and value of seized

⁵¹ See 807 Phil. 1017, 1038 (2017).

⁵² See *People v. Abetong*, 735 Phil. 476, 485 (2014).

⁵³ Section 21(a) of the Implementing Rules and Regulations of RA 9165 provides:

- (a) The apprehending office/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her 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 thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further that non-compliance with these requirement under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;

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evidence had been preserved. A justifiable ground for non-compliance must be proven as fact.⁵⁴

Here, prosecution utterly failed to offer any explanation which would otherwise excuse the buy-bust team’s failure to comply with the chain of custody rule. Thus, the condition for the saving clause to apply was not complied with.

*People v. Crispo*⁵⁵ is apropos:

An examination of the records reveals that while the inventory and photography of the seized items were made in the presence of two (2) elected public officials, i.e., Barangay Kagawads Ramon Amtolim and Helen Tolentino, as evidenced by their signatures on the Receipt of Property/Evidence Seized, the same were not done in the presence of representatives from either the DOJ and the media.

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In this case, despite the non-observance of the witness requirement, no plausible explanation was given by the prosecution.

Verily, the procedural lapses committed by the arresting officers, which were unfortunately left unjustified, militate against a finding of guilt beyond reasonable doubt against Crispo, as the **integrity and evidentiary value of the *corpus delicti* had been compromised.** xxx **As such, since the prosecution failed to provide justifiable grounds for noncompliance with the aforesaid provision, Crispo’s acquittal is perforce in order.**

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(Emphasis and underscoring supplied)

So must it be.

Suffice it to state that the presumption of regularity in the performance of official functions⁵⁶ cannot substitute for compliance and mend the broken links. There can be no presumption of regularity in this case when records were replete with details of the policemen’s serious lapses. For to allow the presumption to prevail notwithstanding clear errors on the part of the police is to negate the safeguards precisely placed by law to ensure that no abuse is committed.⁵⁷ Here, the presumption was amply overturned by compelling evidence of the serious breaches of the chain of custody rule.

⁵⁴ See *People v. Jugo*, G.R. No. 231792, January 29, 2018, 853 SCRA 321, 333.
⁵⁵ See G.R. No. 230065, March 14, 2018.
⁵⁶ Section 3(m), Rule 131, Rules of Court.
⁵⁷ See *People v. Macud*, G.R. No. 219175, December 14, 2017, 849 SCRA 294, 323.



ACCORDINGLY, the appeal is **GRANTED**. The Decision dated August 17, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08586 is **REVERSED** and **SET ASIDE**. Appellant Joey Nabua y Campos is **ACQUITTED** in Criminal Case No. A-6360.

The Court **DIRECTS** the Director of the Bureau of Corrections: a) to cause the immediate release of Joey Nabua y Campos from custody unless he is being held for some other lawful cause; and b) to inform the Court of the action taken within five (5) days from notice.

The Court further orders that the corresponding entry of judgment be immediately issued.

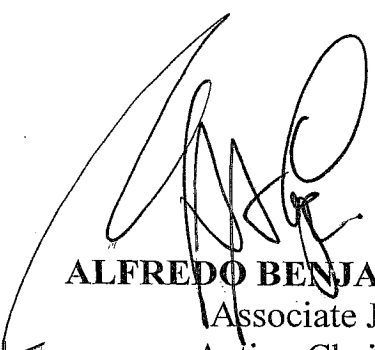
SO ORDERED.



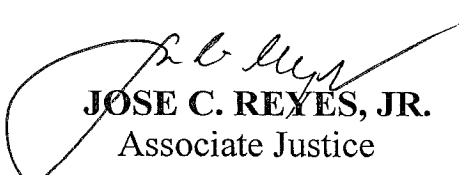
AMY C. LAZARO- JAVIER
Associate Justice

WE CONCUR:

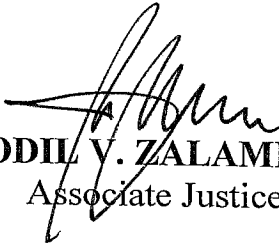
(On official leave)
ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson



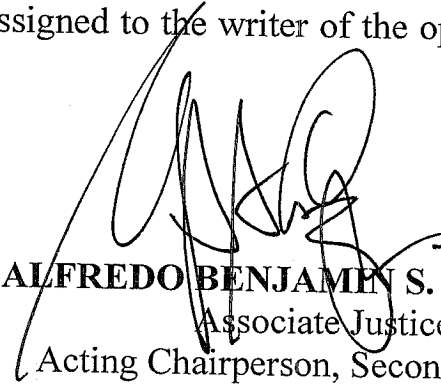
JOSE C. REYES, JR.
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

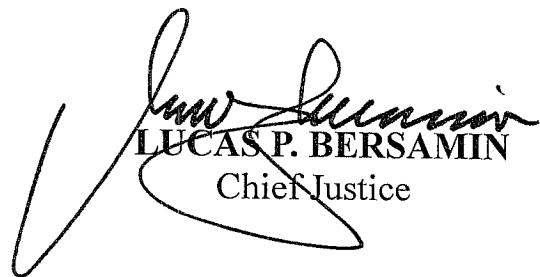
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above Division Acting 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.



LUCAS P. BERSAMIN
Chief Justice

