



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

**MARITO* AND MARIA FE
 SERNA,**

Petitioners,

- versus -

**TITO AND ILUMINADA DELA
 CRUZ,**

Respondents.

G.R. No. 237291

Present:

LEONEN, J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 LOPEZ, J., JJ.

Promulgated:

February 1, 2021

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DECISION

DELOS SANTOS, J.:

The Case

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision² dated July 18, 2017 and the Resolution³ dated January 29, 2018 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 102763. The CA dismissed Marito Serna (Marito) and Maria Fe Serna's (collectively, petitioners) appeal from the Decision⁴ dated April 4, 2014 of the Regional Trial Court (RTC) of Puerto Princesa City, Palawan, Branch 95 in Civil Case No. 3612 directing them to: (i) accept the balance of the purchase price in the amount of

* Also referred to as Felix Morito Serna in some parts of the *rollo*.

¹ *Rollo*, pp. 12-37.

² Id. at 39-49; penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Apolinario D. Bruselas, Jr. and Danton Q. Bueser, concurring.

³ Id. at 52-54.

⁴ Id. at 70-81; penned by Presiding Judge Bienvenido C. Blancaflor.

₱47,621.00; (ii) execute a Deed of Absolute Sale; and (iii) pay Tito Dela Cruz (Tito) and Iluminada Dela Cruz (collectively, respondents) damages and attorney's fees.⁵

The Facts

The instant controversy arose from an action for specific performance and damages filed by respondents against petitioners.

Petitioners are the owners of two (2) parcels of land located in Aramaywan, Quezon, Palawan registered under Original Certificate of Title (OCT) Nos. E-6101 and E-6103 (subject properties).⁶ In their Complaint,⁷ respondents alleged that: (1) on various dates, they paid petitioners various amounts of money totaling ₱252,379.27 for the purchase of the subject properties; (2) on November 9, 1998, petitioners and respondents executed a handwritten Agreement⁸ where the former acknowledged receipt of partial payments made by the latter, and said document was witnessed by Nelson Cordero (Cordero) as indicated by his signature therein; and (3) when respondents tendered the balance for the purchase price of the subject properties, petitioners refused to receive the same and notified them of their intent to sell the subject properties to other buyers for a higher price.⁹ Finally, respondents likewise prayed for ₱300,000.00 as moral damages, ₱100,000.00 as exemplary damages, ₱50,000.00, and ₱1,500.00 for each court hearing as attorney's fees, and ₱20,000.00 as litigation expenses.¹⁰

In turn, petitioners denied respondents' claims. In their Answer,¹¹ petitioners admitted that there was a previous agreement to sell the subject properties to respondents but it was voluntarily abandoned by the latter. By way of affirmative defense, they averred that the action lacked a sufficient cause of action in view of respondents' failure to pay the remaining balance on two (2) separate dates agreed upon by the parties.¹² When petitioners sought to give back the money advanced by respondents, the latter refused.¹³

After pre-trial, trial on the merits then ensued.

RTC Ruling

On April 4, 2014, the RTC rendered a Decision¹⁴ in favor of respondents, the dispositive portion reads:

⁵ Id. at 81.

⁶ Id. at 40.

⁷ Id. at 116-120.

⁸ Id. at 132.

⁹ Id. at 117.

¹⁰ Id. at 118.

¹¹ Id. at 135-137.

¹² Id. at 136.

¹³ Id. at 135.

¹⁴ Id. at 70-81.

WHEREFORE, premises considered, judgment is hereby rendered in favour of the plaintiffs by ordering the defendants to do the following:

1. To accept the final payment of FORTY SEVEN THOUSAND SIX HUNDRED TWENTY ONE (47,621) PESOS and execute at the same time the Deed of Absolute Sale over the purchased lots over Original Certificates of Titles Nos. E-6103 and E-6101.

2. To pay the plaintiffs the following amounts:

- a. Twenty Thousand (P20,000.00) Pesos as moral damages;
- b. Ten Thousand (P10,000.00) Pesos as exemplary damages[;]
- c. Ten Thousand (P10,000.00) Pesos as attorney's fees and cost of litigation.

SO ORDERED.¹⁵

Considering the judicial admission of petitioners that there was a verbal contract of sale between the parties in 1995 and the fact that respondents have already paid a substantial portion of the purchase price, the RTC determined that the contract entered into by the parties was a contract of sale and not a contract to sell. Thus, ownership of the subject properties immediately passed to respondents despite the balance of ₱47,621.00 yet to be paid. Further, the RTC noted that respondents were already in possession of the subject properties and likewise collected the produce therein.¹⁶

Finally, the RTC held that petitioners acted in bad faith for unjustly refusing to accept respondents' tender of the balance and proceed with the contract of sale when they received ₱252,379.27, which constituted more than half of the total purchase price of ₱300,000.00. In view however of the delay on the part of respondents to pay the balance to petitioners despite possession of the subject properties, the RTC considerably reduced the amount of damages prayed for by respondents.¹⁷

CA Ruling

On July 18, 2017, the CA rendered the assailed Decision¹⁸ affirming *in toto* the RTC Decision, to wit:

WHEREFORE, finding the instant appeal to be wanting in merit, it is hereby **DENIED**.

Accordingly, the *Decision dated 04 April 2014* rendered by the Regional Trial Court (RTC), Branch 95, of Puerto Prinsesa City, in Civil

¹⁵ Id. at 81.

¹⁶ Id. at 77-78.

¹⁷ Id. at 79-80.

¹⁸ Id. at 39-49.

Case No. 3612 is **AFFIRMED *in toto***.

SO ORDERED.¹⁹

In so ruling, the CA determined that the genuineness and due execution of the Agreement, a private document, could no longer be challenged for two reasons: (a) petitioners' judicial admissions, *i.e.*, petitioners' admission in their Answer as to the execution of the Agreement; and (b) the testimonies of respondent Tito and witness Cordero who testified as to the execution of the Agreement in their presence. Furthermore, the appellate court held that the contract between the parties was not subject to the Statute of Frauds because it was partially executed. Finally, the CA sustained the award for damages, attorney's fees and costs of litigation in favor of respondents in view of petitioners' bad faith.²⁰

On January 29, 2018, the CA rendered the assailed Resolution²¹ denying petitioners' Motion for Reconsideration²² for being a rehash of the arguments already considered in the assailed Decision.

Hence, this Petition raising the following errors:

I.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE RULING AGAINST THE PETITIONERS DESPITE THE RESPONDENTS' FAILURE TO ESTABLISH THEIR CAUSE OF ACTION THROUGH THE PURPORTED "AGREEMENT" DATED NOVEMBER 9, 1998.

II.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE RULING AGAINST THE PETITIONERS DESPITE THE UNENFORCEABILITY OF THE "AGREEMENT" PURSUANT TO ARTICLES 1356, AND 1358, IN RELATION TO 1403 OF THE NEW CIVIL CODE.²³

Petitioners' Arguments

Petitioners argue that the appellate court erred in dismissing their appeal and sustaining the RTC's Decision due to the following reasons:

(1) Respondents' cause of action was derived from the Agreement, a private document, whose genuineness and due execution has not been established in view of their adamant denial of having signed the same;²⁴

¹⁹ Id. at 48.

²⁰ Id. at 44-48.

²¹ Id. at 52-53.

²² Id. at 106-112.

²³ Id. at 20.

²⁴ Id. at 21-24.

(2) In spite of their judicial admissions that they sold the subject properties to respondents, petitioners did not intend to transfer the ownership over the subject properties until full payment of the purchase price. Full payment of the purchase price was a *sine qua non* for the transfer of ownership, otherwise a Deed of Sale would have been executed;²⁵

(3) Respondents' possession of the subject properties was not in the concept of an owner.²⁶ Prior to the sale, their agreement was a mortgage over the subject properties and respondents started gathering coconuts therein because petitioners could not return the Php70,000.00 borrowed from respondents;

(4) Assuming *arguendo* that respondents' cause of action has been established through the purported Agreement, the same is unenforceable under the Statute of Frauds, and should have been reduced in a public document;²⁷ and

(5) The award of damages and attorney's fees lacks basis as bad faith was not proven.²⁸

Respondents' Arguments

In their Comment,²⁹ respondents alleged that:

(1) The Petition should be dismissed outright insofar as petitioners raise questions of fact which is beyond the purview of a Rule 45 petition. The factual findings of the CA are binding upon the Court and petitioners have not shown that their case falls under the recognized exceptions of the said rule;³⁰

(2) The lower courts both concur in their findings that: (a) the genuineness and due execution of the Agreement has been established; and (b) the Agreement between the parties was a contract of sale, not to a contract to sell;³¹ and

(3) The Statute of Frauds applies to executory contracts, and not to those that are totally or partially performed. Respondents have paid a substantial portion of the purchase price and have been using the subject properties for several years.³²

²⁵ Id. at 24-26.

²⁶ Id. at 26.

²⁷ Id at 26-28.

²⁸ Id. at 29-30.

²⁹ Id. at 242-251.

³⁰ Id. at 244-245.

³¹ Id. at 246-248.

³² Id. at 249.

The Issues

The issues presented for resolution are: (1) whether the genuineness and due execution of the Agreement has been established; and (2) whether a verbal contract of sale is barred by the Statute of Frauds.

The Court's Ruling

The petition lacks merit.

Petitioners concede that they are raising mixed questions of law and fact in their petition but insist that in the interest of substantial justice, their petition should be given due course.³³ Further, they aver that the factual findings of the lower courts do not conform with the evidence on record. In fine, they claim that the CA misappreciated facts in rendering the assailed Decision.

Settled is the rule that the factual findings of the appellate courts are final, binding, or conclusive on the parties and the Court when supported by substantial evidence.³⁴ The foregoing rule finds even more stringent application where the findings of the RTC are sustained by the CA.³⁵ In the present case, both the RTC and the CA unite in their conclusion that what transpired between petitioners and respondents was a contract of sale, a fact that is supported not only by testimonial, but also by documentary evidence. In contrast, petitioners merely interposed denials. For this reason, the Court adheres to the findings of the RTC as affirmed by the CA.

The genuineness and due execution of the Agreement has been established by respondents.

Any doubt as to the due execution of the Agreement is dispelled by petitioners themselves. Petitioners admitted to the existence of the document in question in their Answer. Paragraph 6 of respondents' Complaint states:

6. On November 9, 1998, the defendants affixed their signatures in the handwritten agreement and acknowledgement of the amount they have received from the plaintiffs in partial payment of the purchase price of the parcels of land. The text of the said acknowledgment entitled "Agreement" is as follows:

³³ Id. at 19-20.

³⁴ See *Pascual v. Burgos*, 776 Phil. 167 (2016).

³⁵ *People v. Dayaday*, 803 Phil. 363, 371 (2017).

Know all men by this presents:

We, Mr. Felix Marito Serna and Maria Fe Jabagat Serna of Aramaywan, Quezon, Palawan, owner of Lot No. 7132 containing an area of (32,227) square meters with OCT No. E-6101 and lot no. 7133 containing an area of (41,040) square meters with OCT no. E-6103, has received partial payment of Two hundred fifty two thousand and three hundred seventy nine pesos and twenty seven centavos from Mr. Tito [A.] dela Cruz and Mrs. Iuminada Dela Cruz Buyers of the said lot which is located or situated at Apduhan, Aramaywan, Quezon, Palawan. The bal. Of the buyer is (P47,621.00) only. Done this 9th day of November 1998

A witness Nelson Cordero likewise affixed his signature on the agreement. A copy of the said agreement is attached as Annex D.³⁶ (Italics in the original, underscoring supplied)

Meanwhile petitioners, in their Answer, stated:

4. Defendants ADMIT paragraph 6 of the complaint. Indeed to show that defendants were true to their intention to sell their properties, they still give (sic) last chance to plaintiffs to complete payment until December of 1998 through (sic) the contract was actually agreed in 1995. However, despite the lapse of December 1998 plaintiffs failed to pay the balance[.]³⁷ (Underscoring supplied)

It is well-settled that an admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof.³⁸ Judicial admissions are legally binding on the parties making them.³⁹ Jurisprudence, however, provides the admitting party some leeway to vary or override such admissions, provided the matter was identified as an issue and the admitting party presents contrary evidence during trial.⁴⁰ In this case, petitioners failed to controvert such judicial admission. The appellate court noted that three (3) witnesses testified as to the execution of the Agreement: petitioners⁴¹ and the witness to the Agreement, Cordero. According to Cordero, the Agreement was executed at petitioners' house in the presence of both parties.⁴² It was executed at approximately 7:00 in the morning on November 9, 1998 and he was present during that time because he was tasked by respondents to clean the subject properties.⁴³

The handwritten Agreement, which respondents presented as proof of the contract of sale over the subject properties, is a private document. It

³⁶ *Rollo*, p. 117.

³⁷ *Id.* at 135.

³⁸ RULES OF COURT, Rule 129, Sec. 4:

SECTION 4. Judicial admissions. — An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

³⁹ *Land Bank of the Philippines v. Navarro*, G.R. No. 196264, June 6, 2019.

⁴⁰ *Asean Pacific Planners v. City of Urdaneta*, 587 Phil. 663 (2008).

⁴¹ *Rollo*, pp. 45-46, citing TSN, July 22, 2011, pp. 3-4 and TSN, January 26, 2007, pp. 26-28.

⁴² *Id.* at 75.

⁴³ *Id.*

bears pointing out that there was likewise compliance with the authentication of private documents for purposes of admissibility as specified under Rule 132, Section 20 of the Rules of Court, to wit:

Section 20. *Proof of private document.* – Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

- (a) By anyone who saw the document executed or written; or
- (b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be.

Considering that Section 20 (a) was observed, petitioners can no longer dispute the due execution of the Agreement. As pointed out in the assailed Decision, petitioners not only admitted to signing the Agreement but their counter-arguments banked on the failure of respondents to comply with their obligation by fully settling the balance on the agreed upon dates.⁴⁴ It being established that the transaction of the parties was a contract of sale, it is worth noting that under the Civil Code, a buyer may pay for the price even after the agreed upon time, as long as no demand for rescission has been made by the seller.⁴⁵ From the records, it appears that petitioners never rescinded the sale either judicially or by notarial act. Thus, respondents had the right to pay the balance even past the agreed upon dates.

Statute of Frauds does not apply in this case.

Article 1403 (2) of the Civil Code,⁴⁶ otherwise known as the Statute of Frauds, requires that covered transactions must be reduced in writing, otherwise the same would be unenforceable by action.⁴⁷ The purpose of the Statute is to prevent fraud and perjury in the enforcement of obligations

⁴⁴ Id. at 45-46.

⁴⁵ CIVIL CODE, Article 1592:

Article 1592. In the sale of immovable property, even though it may have been stipulated that upon failure to pay the price at the time agreed upon the rescission of the contract shall of right take place, the vendee may pay, even after the expiration of the period, as long as no demand for rescission of the contract has been made upon him either judicially or by a notarial act. After the demand, the court may not grant him a new term.

⁴⁶ CIVIL CODE, Article 1403:

Article 1403. The following contracts are unenforceable, unless they are ratified:

x x x x

(2) Those that do not comply with the Statute of Frauds as set forth in this number. In the following cases an agreement hereafter made shall be unenforceable by action, unless the same, or some note or memorandum, thereof, be in writing, and subscribed by the party charged, or by his agent; evidence, therefore, of the agreement cannot be received without the writing, or a secondary evidence of its contents:

x x x x

(e) An agreement for the leasing for a longer period than one year, or for the sale of real property or of an interest therein[.]

⁴⁷ *Heirs of Alido v. Campano*, G.R. No. 226065, July 29, 2019.

depending for their evidence on the unassisted memory of witnesses, by requiring certain enumerated contracts and transactions to be evidenced by a writing signed by the party to be charged.⁴⁸ Thus, the sale of real property must be evidenced by a public document.⁴⁹ However, contracts are generally obligatory in whatever form they may have been entered into, provided all the essential requisites for their validity are present.⁵⁰ The Statute simply provides the method by which the contracts enumerated in Art. 1403 (2) may be proved but does not declare them invalid because they are not reduced to writing. In fine, the form required under the Statute is for convenience or evidentiary purposes only.⁵¹

More importantly, the Statute applies only to executory contracts, *i.e.* those where no performance has yet been made. Where the sale of real property through a verbal contract has been partially executed through payments made by one party duly received by the seller, as in the present case, the contract is taken out of the scope of the Statute.⁵² The reason behind the exclusion of contracts which have been partially executed from the Statute of Frauds was explained by the Court in the case of *Swedish Match, AB v. Court of Appeals*,⁵³ thus:

The Statute of Frauds is applicable only to contracts which are executory and not to those which have been consummated either totally or partially. **If a contract has been totally or partially performed, the exclusion of parol evidence would promote fraud or bad faith, for it would enable the defendant to keep the benefits already derived by him from the transaction in litigation, and at the same time, evade the obligations, responsibilities or liabilities assumed or contracted by him thereby.**⁵⁴ (Emphasis supplied)

Likewise, Article 1405 of the Civil Code is explicit: “*Contracts infringing the Statute of Frauds, referred to in No. 2 of Article 1403, are ratified by the failure to object to the presentation of oral evidence to prove the same, or by the acceptance of benefits under them.*” In this case, the verbal contract of sale was ratified when petitioners received on separate occasions, sums of money totalling ₱252,379.27 out of the total purchase

⁴⁸ *Orduña v. Fuentebella*, 636 Phil. 151, 163 (2010).

⁴⁹ CIVIL CODE, Article 1358.

Article 1358. The following must appear in a public document:

(1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein are governed by articles 1403, No. 2, and 1405[.] x x x

⁵⁰ CIVIL CODE, Article 1356.

Article 1356. Contracts shall be obligatory, in whatever form they may have been entered into, provided all the essential requisites for their validity are present. However, when the law requires that a contract be in some form in order that it may be valid or enforceable, or that a contract be proved in a certain way, that requirement is absolute and indispensable. In such cases, the right of the parties stated in the following article cannot be exercised.

⁵¹ *Aglibot v. Santia*, 700 Phil. 404, 415 (2012).

⁵² *Orduña v. Fuentebella*, supra note 48.

⁵³ 483 Phil. 735 (2004).

⁵⁴ *Id.* at 754.

price of ₱300,000.00. These payments were not only acknowledged by petitioners in the Agreement itself, but admitted in their respective testimonies.

The award of damages and attorney's fees is proper.

Finally, petitioners question the award of damages and attorney's fees in favor of respondents as the same is not supposedly supported by evidence.⁵⁵ Petitioners cite respondent Tito's testimony where he stated that he only heard through the grapevine that petitioners intended to sell the subject properties to another buyer at a higher value. Even on the assumption that it was true, they argued that it was necessary to fund the diabetes medications of petitioner Marito.⁵⁶

It bears stressing however that the issue of the propriety of damages is a factual one and a petition for review on *certiorari* under Rule 45 shall only pertain to questions of law.⁵⁷ As explained in *Lorzano v. Tabayag, Jr.*:⁵⁸

Thus, questions on whether or not there was a preponderance of evidence to justify the award of damages or whether or not there was a causal connection between the given set of facts and the damage suffered by the private complainant or whether or not the act from which civil liability might arise exists are questions of fact.

Essentially, the petitioner is questioning the award of moral damages and attorney's fees in favor of the respondent as the same is supposedly not fully supported by evidence. **However, in the final analysis, the question of whether the said award is fully supported by evidence is a factual question as it would necessitate whether the evidence adduced in support of the same has any probative value. For a question to be one of law, it must involve no examination of the probative value of the evidence presented by the litigants or any of them.**⁵⁹ (Emphases supplied)

All told, the Court finds no cogent reason to depart from the uniform conclusion of the lower courts that petitioners acted in bad faith, which thus, warrants the award of damages and attorney's fees. Bad faith does not simply connote bad judgment or simple negligence; it involves a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of a known duty due to some motive or interest or ill will that partakes the nature of fraud.⁶⁰ When bad faith is established, the award of moral

⁵⁵ *Rollo*, pp. 28-30.

⁵⁶ *Id.* at 29.

⁵⁷ *Spouses Lam v. Kodak Phils., Ltd.*, 776 Phil. 88, 114-115 (2016).

⁵⁸ 681 Phil. 39 (2012).

⁵⁹ *Id.* at 49-50.

⁶⁰ *Spouses Estrada v. Philippine Rabbit Bus Lines, Inc.*, 813 Phil. 950, 969 (2017).

damages and attorney's fees are proper. Despite the existence of a valid contract of sale, petitioners refused to accept the balance from respondents even if a substantial portion of the purchase price has already been paid. Further, the appellate court held that petitioners' refusal to accept the balance was impelled by the desire to sell the subject properties to another buyer for a larger sum of money.⁶¹ Finally, assuming *arguendo* that respondents failed to pay the balance on the agreed upon dates, the proper course of action was for petitioners to avail of legal remedies to rescind their contract. Instead, petitioners unilaterally terminated their contract by refusing to accept the balance of the purchase price.

The Court however modifies the assailed Decision insofar as the amounts of damages awarded are declared subject to legal interest at the rate of 6% per *annum* from the finality of this Decision until full satisfaction.⁶²

In civil cases, the quantum of proof is preponderance of evidence. Preponderance of evidence is evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto.⁶³ The Court finds that petitioners have failed to show that the appellate court erred in affirming the RTC's Decision. Moreover, the Court concurs with the lower courts' determination that the evidence on record preponderates in favor of respondents insofar as the existence of a valid contract of sale. Following the partial execution of their verbal contract, petitioners cannot now renege on their obligation by claiming that the same is unenforceable under the Statue of Frauds.

WHEREFORE, premises considered, the Petition is **DENIED**. The Decision dated July 18, 2017 and the Resolution dated January 29, 2018 rendered by the Court of Appeals in CA-G.R. CV No. 102763 is **AFFIRMED with MODIFICATION** insofar as the award of moral and exemplary damages, and attorney's fees shall earn legal interest at the rate of six percent (6%) per *annum* from the finality of this Decision until full satisfaction.

SO ORDERED.

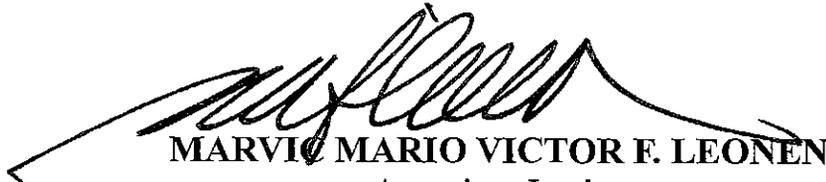

EDGARDO L. DELOS SANTOS
Associate Justice

⁶¹ *Rollo*, p. 47.

⁶² See *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

⁶³ RULES OF COURT, Rule 133, Section 1.

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice
 Chairperson


RAMON PAUL L. HERNANDO
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice


JHOSEP V. LOPEZ
 Associate Justice

ATTESTATION

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


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
 Chief Justice