



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

XXX,*

G.R. No. 241390

Petitioner,

Present:

- versus -

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

PEOPLE OF THE
 PHILIPPINES,
Respondent.

Promulgated:

January 13, 2021

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DECISION

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated March 19, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39690, which affirmed the Decision³ dated October 27, 2016 of the Regional Trial Court (RTC) of Iba, Zambales, Branch 71, which found petitioner XXX (petitioner) guilty beyond reasonable doubt of violation of Section 5(i) of Republic Act (R.A.) No. 9262,⁴ otherwise known as the “Anti-Violence Against Women and Their

* In conformity with Administrative Circular No. 83-2015 (*Subject Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names/Personal Circumstances*), the complete names and personal circumstances of the victim’s family members or relatives, who may be mentioned in the court’s decision or resolution have been replaced with fictitious initials.

¹ *Rollo*, pp. 14-31.

² Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Jane Aurora C. Lantion and Zenaida T. Galapate-Laguilles, concurring; id. at 42-54.

³ Penned by Presiding Judge Consuelo Amog-Bacar; id. at 32-41.

⁴ AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES.

Children Act of 2004.”

The Facts

In an Information dated February 10, 2012, the Associate Prosecution Attorney II of Iba, Zambales charged petitioner with violation of Section 5(i) of R.A. No. 9262, the accusatory portion of which reads as follows:

That in or about the month of October 2010 or near thereto and up to the present time, in [x x x] and within the jurisdiction of this Honorable Court, the above-named accused, being then married to complainant [YYY], did then and there willfully, unlawfully, and feloniously inflict psychological violence upon the person of said [YYY] by maintaining an [extramarital] affair with Pearl Manto and bringing her to their conjugal home to live together, which acts of the accused caused and still causes mental or emotional anguish, public ridicule or humiliation to said [YYY], to her damage and prejudice,

CONTRARY TO LAW.⁵

Upon arraignment, petitioner pleaded not guilty to the offense charged. After the pre-trial conference, trial on the merits ensued.

Version of the Prosecution

Private complainant YYY is the legal wife of petitioner. YYY testified that during her 23 years of marriage with petitioner, he had a habit of getting drunk and womanizing. Sometime in October 2010, petitioner started a fight with YYY, as it is his usual habit when he is intoxicated. Petitioner drove YYY and her four children, AAA, BBB, CCC, and DDD, out of the house and claimed the he alone owned the house. YYY, along with her daughters, fled to her parent's house in x x x. However, the spouses' eldest child, EEE, convinced his three sisters to return to their house so their father will be forced to support them, leaving CCC with their mother. Later on, YYY's daughters, particularly AAA, reported to her through text messages that petitioner was always drunk and even brought them to a videoke bar and introduced one Pearl Manto (Pearl) as their aunt. She thereafter learned from her daughter that the same woman was already eating lunch for two months in their house and ultimately lived with them.⁶

The estranged spouses' daughter, AAA, corroborated her mother's allegations and testified that her parents had a fight and they were driven out of their home. Out of fear that her father would hurt them, she, along with her mother and siblings, went to her grandmother's house. AAA admitted

⁵ *Rollo*, p. 68.

⁶ *Id.* at 32-33, 43-44.

that when she and her two sisters returned to their house and lived with their father, the latter always had drinking sprees. She also knew Pearl as his father's mistress and that his father frequented the videoke bar where Pearl worked. During her stay with her father, AAA admitted that Pearl lived with them and had her own room in the house. Often, when her father thought that she and her sisters were already asleep, he would transfer to Pearl's room. After two months, the sisters decided to leave their father as he had no time for them and they did not like his mistress.⁷

Version of the Defense

For his part, petitioner denied having an extramarital or any romantic affair with Pearl. He admitted though that he knew Pearl to be a guest relations officer of a videoke bar, which has already closed.⁸

Petitioner alleged that the reason why he and YYY fought was the mismanagement by the latter of the family resources by being an incorrigible borrower as evidenced by the real estate mortgage executed by YYY without his consent and a case for *estafa* filed against her. He likewise denied driving his wife and his children away from their conjugal home, rather, it was her who left the house when they had a fight.⁹

The Ruling of the RTC

The RTC found petitioner guilty beyond reasonable doubt of violation of Section 5(i) of R.A. No. 9262 and sentenced him to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional* as minimum to eight (8) years and one (1) day of *prision mayor* as maximum.¹⁰

The RTC held that the prosecution was able to establish all the elements of the offense charged. YYY convincingly testified that she suffered pain from petitioner's womanizing and openly living with his mistress in their conjugal home together with their minor children. Petitioner's acts of evicting his wife and his children from their conjugal home and inviting his mistress to live with him in the same house in the presence of their three minor daughters consisted of psychological violence on both his wife and their children under Section 3 of R.A. No. 9262.¹¹

⁷ Id. at 43-44.

⁸ Id. at 34, 40.

⁹ Id. at 34.

¹⁰ Id. at 41.

¹¹ Id. at 40.

The Ruling of the CA

In his appeal before the CA, petitioner interposed the following arguments: (1) that the testimony of YYY did not prove the presence of anguish caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of support or custody or access to their children; (2) that the allegation of his extramarital affair with Pearl is hearsay; (3) that the mental and emotional anguish brought about by the introduction of Pearl to their children was suffered by their children and not by YYY; and (4) that he should be acquitted since YYY and their daughter already executed their respective affidavits of desistance.¹²

The CA denied the appeal and affirmed the ruling of the RTC.¹³ The CA concurred with the RTC that all the elements of the offense charged were duly established by the prosecution. There is no doubt that petitioner inflicted psychological violence upon his wife when he evicted her and their children from their conjugal home and when he maintained an extramarital affair with Pearl in their conjugal home where they lived as a couple. The said acts caused mental and emotional anguish, public ridicule and humiliation to YYY.

Even if YYY had no personal knowledge of the extramarital affair of petitioner and merely learned about it through their children, this does not mean that the same did not take place and that she was not emotionally affected by them. The testimony of their daughter AAA about the extramarital affair of petitioner is sufficient to establish the existence of psychological violence caused by petitioner against YYY. It is a common occurrence in small towns where the parties live that news and gossips about the philandering ways of either spouse would easily spread. Moreover, the allegation that the psychological violence is merely an isolated incident and not a repetitive act does not support the acquittal of petitioner as the law does not require that the act must be repetitive.¹⁴

Aggrieved, petitioner elevated the case before the Court *via* a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court asserting that the CA erred in ruling that the offense charged was proven by moral certainty.

The Issue

The issue for resolution is whether all the elements of psychological violence under Section 5(i) of R.A. No. 9262 were duly established.

¹² Id. at 45-46.

¹³ Id. at 53.

¹⁴ Id. at 50-52.

The Court's Ruling

The petition is unmeritorious as the CA committed no reversible error in affirming the conviction of petitioner for violation of Section 5(i) of R.A. No. 9262.

***Psychological violence under R.A.
No. 9262 is duly established.***

In the instant case, petitioner was charged and convicted with the crime of violation of Section 5(i) of R.A. No. 9262. Petitioner insists on his innocence and asserts that the prosecution was not able to establish the elements of psychological violence as contemplated by law.

Section 5(i) of R.A. No. 9262 penalizes some forms of psychological violence inflicted against women and their children which are committed through any of the following acts:

(i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or access to the woman's child/children.

The elements of the aforementioned crime are as follows:

- (1) The offended party is a woman and/or her child or children;
- (2) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
- (3) **The offender causes on the woman and/or child mental or emotional anguish;** and
- (4) **The anguish is caused through acts of public ridicule or humiliation,** repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar such acts or omissions.¹⁵ (Emphases supplied; citations omitted)

¹⁵ *Dinamling v. People*, 761 Phil. 356, 373 (2015).

Psychological violence is considered an indispensable element in violation of Section 5(i).¹⁶ It is defined in Section 3(c) of R.A. No. 9262 as:

C. “Psychological violence” refers to acts or omissions causing or likely to **cause mental or emotional suffering of the victim** such as but not limited to intimidation, harassment, stalking, damage to property, **public ridicule or humiliation**, repeated verbal abuse **and marital infidelity**. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children. (Emphases and underscoring supplied)

A judicious study of the case reveals that all the elements of the crime charged were duly established.

The *first and second* elements of the offense are uncontested. The offended party is a woman and her child or children. YYY is the wife of petitioner with whom they have five children. One of their children, AAA, testified in court about the infidelity of her father and how his mistress lived with them in her parents’ conjugal home.

As to the third and fourth elements, it is duly established that petitioner committed psychological violence through marital infidelity and public ridicule or humiliation, which caused mental anguish and emotional suffering upon his wife.

Here, the trial court gave greater weight to the categorical and positive testimony of YYY and her daughter AAA over the defenses of denial and alibi of petitioner.

Herein petitioner contends that the presence of psychological violence has not been duly proven beyond reasonable doubt by the prosecution. Petitioner avers that his wife YYY could not have suffered psychological violence since she did not have personal knowledge of the existence of the crime or of his alleged marital infidelity. YYY only came to know of his alleged marital infidelity through their daughter AAA, who sent text messages to her mother regarding his father’s mistress. Petitioner posits that the RTC and the CA Decision were based on hearsay evidence.

Petitioner’s argument fails to convince.

¹⁶ *Araza v. People*, G.R. No. 247429, September 8, 2020.

Truly, hearsay is considered an inadmissible evidence under Section 36, Rule 130 of the Rules of Court.¹⁷ However, this rule does not apply to independently relevant statements. The *doctrine of independent relevant statement* is clearly discussed in *Gubaton v. Amador, viz.:*

Under the doctrine of independently relevant statements, only the fact that such statements were made is relevant, and the truth or falsity thereof is immaterial. The doctrine on independently relevant statements holds that conversations communicated to a witness by a third person may be admitted as proof that, regardless of their truth or falsity, they were actually made. Evidence as to the making of such statements is not secondary but primary, for in itself it (a) constitutes a fact in issue or (b) is circumstantially relevant to the existence of such fact. Accordingly, the hearsay rule does not apply, and hence, the statements are admissible as evidence.¹⁸

In this case, YYY indeed did not have personal knowledge of the marital infidelity of petitioner. YYY's statement may be considered an independently relevant statement, an exception to the hearsay rule, the purpose of which is to merely establish that a statement was made. YYY was only testifying that she and her children were driven out of their home and thereafter she learned through her daughter AAA that her husband, petitioner, is having an affair with Pearl, who eventually lived with her husband and their children in their conjugal home.

An excerpt of YYY's testimony is hereby reproduced, thus:

PROS. BARTOLOME TO WITNESS:

Q Now, you mentioned that you were driven away by your husband?

A Yes, sir.

x x x x

Q So, when you were driven away from your house along with your four children[,] where did you go?

A To my parents in [x x x], sir.

Q And, how about your four children, did they stay also during the same period?

A On the night that I separated from my husband[,] one of my children [EEE] talked to my other three children to return to the house.

x x x x

¹⁷ Section 36. *Testimony generally confined to personal knowledge; hearsay excluded.* – A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception x x x.

¹⁸ A.C. No. 8962, July 9, 2018.

- Q And so, what [happened] after your three children returned to your residence at [x x x]?
- A Yes, they stayed with their father, however, my children reported to me that their father was always drunk and usually [goes] to the Videoke bar.
- Q And, what reason do they tell you of [these] stories that your husband is out at [night] drinking?
- A They went to the house of their Lola and even my daughter [sent] text messages to me informing me of the activity of my husband.
- Q Who among your children would report to you?
- A AAA, sir.
- Q Are there other matters which AAA would report to you regarding your husband?
- A Yes, sir, regarding the other woman whom he introduced.
- Q And were you able to know from your daughter AAA how this woman of your husband was introduced to them?
- A Yes sir. He introduced the woman because the woman was working in a Videoke bar.
- Q Are you trying to say that AAA would accompany her father to the videoke bar?
- A One time they dropped by together with the two other siblings coming from the market at the videoke bar.
- Q And, did you come to know of the name of this other woman?
- A Yes, sir.
- Q And what is her name?
- A Pearl Manto, sir.¹⁹

It is clear that the making of such statements is circumstantially relevant to the case at bench and hence, may be considered in evidence against petitioner. Notably, YYY's statements were corroborated by her and petitioner's daughter, AAA, who testified as follows:

PROS. CATOLICO TO WITNESS:

- Q Do you recall what they were fighting about?
- A Yes, ma'am.
- Q And, tell us please?
- A They were fighting over my father's womanizing, ma'ani.
- Q And, what did you notice of your father when he was fighting with your mother?
- A He was drunk, ma'am.

¹⁹ Rollo, pp. 36-37.

- Q And, what other things happened during that night?
A He drove us away from our home, ma'am.
- Q When you said "we", whom are you referring to as the person that your father drove away from your house?
A My mother and my siblings, ma'am.
x x x x
- Q And, where did you go?
A In my grandmother's house at [x x x], ma'am.

x x x x
- Q Do you know this Pearl Manto?
A She is the other woman of my father, ma'am.
- Q And do you know where she was working?
A Yes, ma'am.
- Q Where?
A Double "A" Videoke Bar, ma'am.²⁰
- Q And you stated in your affidavit also that Pearl Manto at first was taking lunch every day in your house and later on she lived with your father in [x x x], so where were you then when Pearl Manto started at first taking lunch in your house and then later on living with your father in his house at [x x x]?
A I was at home, ma'am.
- Q What house?
A In [x x x], ma'am.
- Q So you were still in the house of your father in [x x x]?
A Yes, ma'am.
- Q Will you describe to us the relationship of your father to Pearl Manto?
A What I know is that, she is the other woman of my father and she would only go to our house.
- Q When she decided to live in the house of your father in whose room was he sleeping?
A She stays with [us] in our room but when she thought that we were already asleep she would transfer to my father's room. My father would [be] the one to transfer.
- Q Your father would transfer in whose room?
A To Pearl Manto, ma'am.
- Q So, Pearl Manto has her own room?
A Yes, ma'am.²¹

²⁰ Id. at 38-39.

²¹ Id. at 39.

Again, there is no doubt that the hearsay rule is not applicable in this case. However, YYY's statements are admissible as independently relevant statements. Considering further that the statements made by YYY were duly corroborated by other evidence that are not hearsay, the Court finds no compelling reason to declare that the hearsay rule applies in this case.

It is fundamental that the defense of denial is inherently weak and cannot prevail over the positive and categorical testimony of the prosecution witnesses. In this case, other than bare denials, herein petitioner did not proffer any convincing defense to disprove the testimony of his wife and his daughter about his marital infidelity. As such, there is no cogent reason to set aside the findings of the RTC, as concurred in by the CA, that indeed, petitioner committed marital infidelity against his wife.

Petitioner also postulated that the CA erred in ruling that mental or emotional anguish is similarly proven as that of moral damages since mental anguish must be proven by the testimony of the victim herself. In the instant case, petitioner contends that YYY did not narrate the form of mental or emotional anguish she suffered through acts of public ridicule and humiliation. Allegedly, YYY's mental or psychological pain is merely imaginary. Petitioner went on to argue that if his marital infidelity were true and indeed he introduced Pearl to his children and made her live with them, their children were the ones who would have suffered mental or emotional anguish and not YYY.²²

It is worthy to stress that the determination of whether mental anguish and suffering was duly proven by the prosecution is a question of fact that is beyond the province of a Petition for Review on *Certiorari*. It has long been established that the Court is not a trier of facts. In a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, the Court is limited to the resolution of questions of law. Factual findings of the RTC, especially when affirmed by the CA, is accorded respect and even finality.²³ Having failed to show that the circumstances in this case fall under any of the exceptions, petitioner cannot insist on the review of the factual findings of the lower and appellate courts.

At any rate, petitioner is correct that in order to establish mental anguish, the testimony of the victim must be presented as the experiences are personal to her. In *Dinamling v. People*, the Court explained that:

Psychological violence is an element of violation of Section 5(i) just like the mental or emotional anguish caused on the victim.
Psychological violence is the means employed by the perpetrator,

²² Id. at 25-26.

²³ *Calaoagan v. People*, G.R. No. 222974, March 20, 2019.

while mental or emotional anguish is the effect caused to or the damage sustained by the offended party. To establish psychological violence as an element of the crime, it is necessary to show proof of commission of any of the acts enumerated in Section 5(i) or similar such acts. And to establish mental or emotional anguish, it is necessary to present the testimony of the victim as such experiences are personal to this party.²⁴ (Emphasis and underscoring supplied)

Both the RTC and the CA gave credence to the testimony of YYY that due to petitioner's marital infidelity, she suffered mental anguish and emotional suffering. An excerpt of YYY's testimony is hereby reproduced:

Q And, although you were already residing in your mother's house, when you learned about this incident wherein your husband brought his mistress to your conjugal house, what did you feel, YYY?

A I was hurt and I couldn't sleep, because I was thinking of my children, ma'am.

Q What did you feel personally as the wife of XXX?

A I was really hurt, and I cannot accept what happened, ma'am.²⁵

Again, the credibility of witnesses is a matter best assessed by the RTC who has the unique position and firsthand opportunity to note the demeanor, attitude, and candor of the witnesses.²⁶ Given the fact that, in this case, the CA affirmed the findings of the RTC, and considering that there is no indication that facts of substance and value were overlooked, the Court is doctrinally bound by the trial court's assessment of credibility of witnesses.

While petitioner sorely attempts to downplay the effect of his marital infidelity, the pain and suffering of his wife is without a doubt real and raw and far from being imaginary. Just because the wife was not bodily present to witness the unfaithfulness of her husband, it does not negate the emotional pain and anguish his infidelity caused her. Worthy to mention also is the observation of the CA that *Barangays* x x x and x x x are proximately close and are situated within the town of x x x. Indeed, gossip easily spreads in small towns like x x x. All the more when the hot issue is about a husband bringing his mistress into the family home to live with his children. In this case, the mental anguish suffered by the wife is compounded by public ridicule and humiliation.

Herein petitioner also alleged that the CA failed to consider the Affidavits of Desistance of YYY and their children, which belied the accusations against him. It is well-settled that affidavits of desistance, more

²⁴ Supra note 15, at 376.

²⁵ *Rollo*, p. 51.

²⁶ *People v. Salazar*, 648 Phil. 520, 532 (2010).

so when made by a witness after the conviction of the accused, deserve scant consideration.²⁷ In *People v. Dela Cerna*,²⁸ the Court declared that an affidavit of desistance, especially when executed as a mere afterthought, has no persuasive value. Thus, the CA properly ruled that the Affidavits of Desistance are merely noted without action considering that petitioner has already been convicted of the offense charged and that the State is the real complainant in this case.

Prescinding from the foregoing, the prosecution has established beyond reasonable doubt that petitioner committed psychological violence, through marital infidelity, which caused mental anguish and emotional suffering on his wife in violation of Section 5(i) of R.A. No. 9262.

The Penalty

As to the proper penalty imposed upon petitioner, Section 6(f) of R.A. No. 9262 provides that the crime is punishable by, *inter alia*, *prision mayor*. It is well established that if the special penal law adopts the nomenclature of the penalties of the Revised Penal Code (RPC), as in the case of R.A. No. 9262, the ascertainment of the indeterminate sentence will be based on the rules applied for the crimes that are punishable under the RPC.²⁹

Applying the Indeterminate Sentence Law, the minimum term of the indeterminate penalty shall be taken from the penalty next lower in degree, *i.e.*, *prision correccional*, or anywhere from six (6) months and one (1) day to six (6) years, while the maximum term shall be that which could be properly imposed under the law, which is eight (8) years and one (1) day to ten (10) years of *prision mayor*, there being no aggravating or mitigating circumstances attending the commission of the crime.³⁰ The Court deems it proper to impose upon petitioner the indeterminate penalty of six (6) months and one (1) day of *prision correccional* as minimum to eight (8) years and one (1) day of *prision mayor* as maximum.³¹

Notably, the RTC and the CA failed to impose a fine on petitioner and the mandatory psychological counseling or treatment.³² In addition to imprisonment, these are additional penalties that are set forth in Section 6 of R.A. No. 9262, thus:

²⁷ *Rivac v. People*, 824 Phil. 156, 168-169 (2018).

²⁸ 439 Phil. 394 (2002).

²⁹ *Melgar v. People*, 826 Phil. 177, 189 (2018).

³⁰ *Reyes v. People*, G.R. No. 232678, July 3, 2019.

³¹ *Araza v. People*, G.R. No. 247429, September 8, 2020.

³² *AAA v. People*, G.R. No. 229762, November 28, 2018.

Section 6. Penalties. — The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

x x x x

(f) Acts falling under Section 5(h) and Section 5(i) shall be punished by *prision mayor*.

x x x x

In addition to imprisonment, the perpetrator shall (a) **pay a fine** in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than Three hundred thousand pesos (P300,000.00); (b) **undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court**. (Emphases and underscoring supplied)

Thus, petitioner is directed to pay a fine in the amount of ₱100,000.00 and to undergo mandatory psychological counseling or psychiatric treatment.

WHEREFORE, premises considered, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated March 19, 2018 of the Court of Appeals in CA-G.R. CR No. 39690 are hereby **AFFIRMED with MODIFICATION**:

- (1) Petitioner XXX is found **GUILTY** beyond reasonable doubt of violation of Section 5(i) of Republic Act No. 9262 and is hereby sentenced to suffer an indeterminate penalty of six (6) months and one (1) day of *prision correccional* as minimum, to eight (8) years and one (1) day of *prision mayor* as maximum.
- (2) Petitioner is **ORDERED** to **PAY** a fine in the amount of ₱100,000.00; and
- (3) Petitioner is **DIRECTED** to **UNDERGO** mandatory psychological counseling or psychiatric treatment and to report his compliance therewith to the court of origin within 15 days after the completion of such counseling or treatment.

SO ORDERED.


EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice



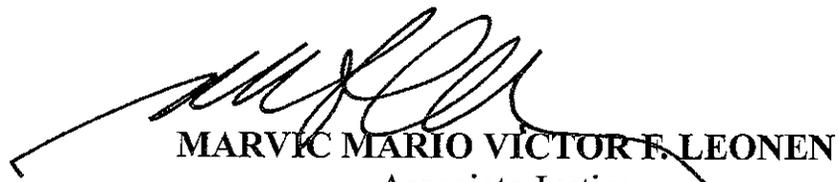
HENRI JEAN PAUL B. INTING
Associate Justice



RICARDO R. ROSARIO
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