



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

CESAR M. CALINGASAN,*
Petitioner,

G.R. No. 239313

Present:

- versus -

GESMUNDO, C.J., Chairperson,
CAGUIOA,
LAZARO-JAVIER,
LOPEZ, M., and
LOPEZ, J., JJ.

PEOPLE OF THE
PHILIPPINES,
Respondent.

Promulgated:

FEB 15 2022

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DECISION

CAGUIOA, J.:

This is a Petition for Review on *Certiorari*¹ (Petition) filed pursuant to Rule 45 of the Rules of Court by petitioner Cesar M. Calingasan (Calingasan), assailing the Decision² dated December 15, 2017 and Resolution³ dated May 10, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39417, affirming with modification the Decision⁴ dated November 17, 2016 of the Regional Trial Court, Branch 94, Quezon City (RTC), which convicted Calingasan for violation of Section 5(i)⁵ in relation to Section 6(f)⁶ of Republic Act No.

* "Cesar Calingasan y Mendoza" and "Cesar Mendoza Calingasan" in some parts of the record.

¹ *Rollo*, pp. 3-17.

² *Id.* at 20-31. Penned by Associate Justice Ramon R. Garcia with Associate Justices Myra V. Garcia-Fernandez and Rafael Antonio M. Santos, concurring.

³ *Id.* at 32-33.

⁴ *CA rollo*, pp. 37-40. Penned by Presiding Judge Roslyn M. Rabara-Tria.

⁵ SEC. 5. *Acts of Violence Against Women and Their Children.* — The crime of violence against women and their children is committed through any of the following acts:

x x x x

(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 denial of access to the woman's child/children. (Emphasis and underscoring supplied)

⁶ SEC. 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*.

(R.A.) 9262,⁷ otherwise known as the *Anti-Violence Against Women and Their Children Act of 2004* (VAWC Law).

The Facts

Calingasan was charged under an Information,⁸ the accusatory portion of which reads:

That **sometime in 2004 up to the present[,]** in Quezon City, Philippines, the said accused, being the husband of [AAA],⁹ did then and there, willfully, unlawfully and feloniously commit an act of economic abuse against said complainant and their child [BBB],¹⁰ fifteen (15) years old, a minor, by then and there, abandoning them, leaving them with no material and financial support legally due them, thereby causing mental and emotional anguish, public ridicule or humiliation to said offended parties to their damage and prejudice.

Contrary to law.¹¹ (Emphasis in the original)

He pleaded not guilty to the above-quoted charges. During the pre-trial of his case, the parties stipulated on the following: (1) that Calingasan and private complainant, AAA (private complainant), are husband and wife; and (2) that they have a 15-year-old son named BBB.¹²

Thereafter, trial ensued. The version of the prosecution was summarized by the CA as follows:

On November 27, 1995, [Calingasan] and private complainant got married in Manila, as evidenced by their Certificate of Marriage. More than a year later, or on January 22, 1997, private complainant gave birth to a son, BBB.

The marriage of private complainant and [Calingasan] was marred with frequent quarrels, as a result of appellant's quick temper. The repeated

⁷ AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES, approved on March 8, 2004.

⁸ Records, pp. 1-2.

⁹ “[AAA]” in some parts of the record. The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992; RA 9262, entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES,” approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN” (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled “PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES,” dated September 5, 2017.)

¹⁰ “[BBB]” in some parts of the record. Id.

¹¹ Records, p. 1.

¹² *Rollo*, pp. 21-22.

fight between the spouses were sometimes witnessed by their son BBB, which negatively affected him. On October 1998, [Calingasan] left the conjugal home with the promise that he would support BBB financially, as he was then earning US\$939.00 per month as a seaman. Despite this promise, however, he failed to give a single centavo in support of private complainant and BBB. Private complainant, in fact, lost touch with [Calingasan] as he had resigned from his work as a seafarer. Later, private complainant learned from her in-laws that [Calingasan] migrated to Canada, where he started a business.

From the time [Calingasan] left them in October 1998, it was solely private complainant working as a seafarer who supported herself and her son BBB. Without any help from [Calingasan], she paid all house rentals, utility bills, and groceries. Private complainant enrolled BBB in private schools and paid approximately P500,000.00 in school fees alone for his elementary and high school education. By the time private complainant took the witness stand, BBB was a college student enrolled in the University of Sto. Tomas.

Sometime in 2010, private complainant got sick. This disqualified her from working as a seafarer. Because of this, her savings became depleted in supporting herself and her son BBB's daily sustenance. It came to a point that she had to beg from her relatives in order to provide for themselves.


Considering private complainant's circumstances and BBB's increasing needs, private complainant was constrained to contact [Calingasan] by way of email to demand financial help. She asked [Calingasan] for P160,000.00 per year as paternal support, which amount included school and other fees, along with an allowance of P6,000.00 per month. [Calingasan], however, claimed that he was no longer in a position to help his wife and son because his business in Canada went bankrupt.

In support of her testimony, private complainant presented and identified several receipts evidencing payment of tuition and other school fees, dental expenses, groceries, telephone and internet utilities, Manila Water billings, Meralco billings, and apartment rentals.¹³

The defense, on the other hand, presented as witnesses Calingasan and his brother Danilo Calingasan (Danilo), whose testimonies were summarized by the CA as follows:

[Calingasan] interposed the defense of denial. [Calingasan] claimed that upon leaving home in 1998 and until the year 2005, he has been supporting his family by sending money through bank remittances and items by door-to-door services. In 2009, he was convicted of sexual assault in British Columbia, Canada causing his incarceration and [loss] of employment. Worse, when [Calingasan] was released from jail in 2010, he found difficulty in finding jobs. As such, he was not in a position to support his family, much less himself. He became dependent on his family for his own support. When private complainant contacted him to ask for financial

¹³ Id. at 22-23.



help for their son BBB, [Calingasan] told her that he could not send any money to them. [Calingasan] also pointed out that he is a resident of Canada and is already a Canadian citizen. He only went back to the Philippines in 2011 in order to attend the wake of his father. It was then that the instant case was filed against him by private complainant. She was also able to get a hold departure order against him so he could not go back to Canada to work. Finally, [Calingasan] asseverates that the instant case was initiated by private complainant because she wanted to extract money from him. She bought a property in Bataan by installment but was unable to fully pay the same. She even went to [Calingasan's] brother to ask for P2,000,000.00.

x x x [Danilo] testified that his brother x x x went back to the Philippines for the wake and burial of their father. He was unable to go back to Canada because a hold departure order was issued against him in relation to the instant case. Danilo thus contacted private complainant and offered to issue postdated checks in the amount of P7,500.00 per month until BBB graduates from college, in exchange for the withdrawal of her complaint. Private complainant, however, was apprehensive that the checks would be unfunded so she demanded a lump sum of P1,400,000.00 instead. Unfortunately, Danilo could not afford the same because he has his own family to support. Private complainant then told Danilo that she bought a condominium unit in Bataan on installment basis. She needed money so she asked Danilo to buy the same for P300,000.00 and, in return, she would drop the case against appellant. Again, Danilo did not have the funds therefor.¹⁴

The Ruling of the RTC

In its Decision dated November 17, 2016, the RTC found Calingasan guilty beyond reasonable doubt of violating Section 5(i) of R.A. 9262, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Cesar Calingasan y Mendoza guilty beyond reasonable doubt of Violation of Section 5(i)[,] Republic Act No. 9262 otherwise known as the "Anti-Violence Against Women and their Children Act of 2004" and is hereby sentenced to an indeterminate penalty of Two (2) years, Four (4) months and One (1) day of *prision correccional*[,] as minimum, to Six (6) years and One (1) day of *prision mayor*[,] as maximum[,], and to pay a fine of One Hundred Thousand Pesos (P100,000.00) plus costs.

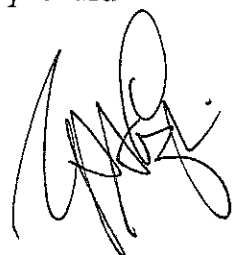
Accused is further ordered to undergo mandatory psychological counseling at the SSDD, Quezon City and to submit proof of compliance thereof to the court.

SO ORDERED.¹⁵

The trial court gave full credence to private complainant's claim that Calingasan left the conjugal home and ever since had been remiss in giving financial support to his wife and son. On the other hand, the court *a quo* did

¹⁴ Id. at 23-24.

¹⁵ CA *rollo*, p. 40.



not give credit to Calingasan's claim that he has no intention of abandoning his family and that his failure to support them was caused by his conviction of a criminal offense in 2009, in the absence of any evidence to corroborate the same.¹⁶

Aggrieved, Calingasan appealed to the CA.¹⁷

The Ruling of the CA

In the assailed Decision, the CA denied Calingasan's appeal, and affirmed with modification as to the penalty imposed the RTC Decision, to wit:

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The Decision dated November 17, 2016 of the Regional Trial Court, Branch 94, Quezon City is **AFFIRMED with MODIFICATION** in that accused-appellant Cesar Calingasan y Mendoza is sentenced to suffer imprisonment of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to nine (9) years and four (4) month of *prision mayor*, as maximum.

SO ORDERED.¹⁸

The CA agreed with the RTC's finding that the prosecution was able to establish all the elements of Section 5(i) of R.A. 9262.¹⁹ The CA held that Calingasan's withholding of financial support constitutes an act of psychological violence against private complainant and BBB. It further ruled that the mental or emotional anguish caused on private complainant as a result thereof was indubitable.²⁰

The CA also did not give credence to Calingasan's defense of good faith because, apart from his self-serving testimony, Calingasan failed to adduce evidence showing that he was financially incapable of giving support to his wife and son.²¹ The CA further stressed that in violation of R.A. 9262, a special law, good faith is immaterial. Proof of mere violation is sufficient to sustain a conviction without need of proving ill motive.²²

Thus, the present Petition.

¹⁶ *Rollo*, pp. 24-25; see also, *id.* at 39-40.

¹⁷ *Id.* at 25.

¹⁸ *Id.* at 31.

¹⁹ *Id.* at 26-28.

²⁰ *Id.* at 29.

²¹ *Id.* at 30.

²² *Id.*



Issue

Whether or not Calingasan is guilty of violating Section 5(i) of R.A. 9262.

Calingasan argues that the prosecution's evidence failed to prove all the elements of the crime charged, particularly, on how his supposed failure to give financial support resulted to private complainant and their son's mental or emotional anguish.²³ He further contends that what the law seeks to punish is the deliberate and unjust denial to give financial support.²⁴ In his case, his failure to provide private complainant and BBB financial support is not intentional on his part.²⁵

The People of the Philippines, through the Office of the Solicitor General (OSG), on the other hand, insists that R.A. 9262 is *malum prohibitum*, and therefore, the lack of criminal intent and good faith are not exempting circumstances. It is sufficient that Calingasan abandoned his family and failed to give financial support consciously and freely to constitute a violation of R.A. 9262.²⁶ Further, the mental and emotional anguish caused to private complainant are clearly manifest from the fact that Calingasan abandoned their conjugal dwelling and left his minor child solely under private complainant's care and support.²⁷ These acts of Calingasan, according to the OSG, constitutes economic abuse as defined and punished by R.A. 9262.²⁸

The Court's Ruling

The Court grants the Petition and acquits Calingasan of the crime charged.

In all criminal cases, the Court has always adhered to the fundamental policy that when the guilt of the accused is not proven with moral certainty, the constitutional presumption of innocence must be upheld, and the exoneration of the accused must be granted as a matter of right.²⁹ Thus, to warrant a finding of guilt for the crime charged, the prosecution must establish, beyond reasonable doubt, each and every element of the crime charged in the information or for any other crime necessarily included therein.³⁰

In the case at bar, upon careful review of the case records, the Court finds that the prosecution failed to discharge its burden.

²³ Id. at 12, 15.

²⁴ Id. at 13.

²⁵ See id.

²⁶ Id. at 53.

²⁷ Id. at 56.

²⁸ Id.

²⁹ *Maamo v. People*, G.R. No. 201917, December 1, 2016, 811 SCRA 458, 487.

³⁰ *Andaya v. People*, G.R. No. 168486, June 27, 2006, 493 SCRA 539, 556-557.



Calingasan cannot be held liable for violation of Section 5(i) of R.A. 9262.

Calingasan was charged and convicted by the courts *a quo* for violation of Section 5(i) of R.A. 9262, which provides:

SEC. 5. *Acts of Violence Against Women and Their Children.* — The crime of violence against women and their children is committed through any of the following acts:

X X X X

(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 denial of access to the woman's child/children.

Based on the Information filed against him, Calingasan is accused of willfully denying private complainant and their child of the financial support legally due them, which allegedly caused them mental and emotional anguish, public ridicule and humiliation.³¹

In the very recent case of *Acharon v. People*³² (*Acharon*), the Court *en banc* clarified that the failure or inability to provide financial support *per se* is not a criminal act punishable under Section 5(i) of R.A. 9262. What Section 5(i) penalizes is the act of inflicting **psychological violence** against women and children by willfully or consciously denying them the financial support legally due to them. The Court ratiocinated as follows:

The Court stresses that Section 5(i) of R.A. 9262 uses the phrase “denial of financial support” in defining the criminal act. The word “denial” is defined as “refusal to satisfy a request or desire” or “the act of not allowing someone to do or have something.” The foregoing definitions connote *willfulness*, or an *active* exertion of effort so that one would not be able to have or do something. This may be contrasted with the word “failure,” defined as “the fact of not doing something [which one] should have done,” which in turn connotes passivity. From the plain meaning of the words used, the act punished by Section 5(i) is, therefore, *dolo* in nature — there must be a concurrence between intent, freedom, and intelligence, in order to consummate the crime.

X X X X

It is not enough, therefore, for the woman to experience mental or emotional anguish, or for her partner to deny financial support that is legally due her. In order for criminal liability to arise under Section 5(i) of R.A. 9262, insofar as it deals with “denial of financial support,” there must, therefore, be evidence on record that the accused willfully or consciously

³¹ *Rollo*, p. 21; records, p. 1.

³² G.R. No. 224946, November 9, 2021.



withheld financial support *legally due* the woman for the purpose of inflicting mental or emotional anguish upon her. x x x

“It bears emphasis that Section 5(i) penalizes some forms of *psychological violence* that are inflicted on victims who are women and children.” In prosecutions under Section 5(i), therefore, “[p]sychological violence is the means employed by the perpetrator” with denial of financial support as the weapon of choice. **In other words, to be punishable by Section 5(i) of R.A. 9262, it must ultimately be proven that the accused had the intent of inflicting mental or emotional anguish upon the woman, thereby inflicting psychological violence upon her, with the willful denial of financial support being the means selected by the accused to accomplish said purpose.**

This means that the mere failure or one’s inability to provide financial support is not sufficient to rise to the level of criminality under Section 5(i), even if mental or emotional anguish is experienced by the woman. In other words, even if the woman were to suffer mental or emotional anguish due to the lack of financial support, but the accused merely *failed* or was *unable* to so provide support, then criminal liability would not arise. A contrary interpretation to the foregoing would result in absurd, if not outright unconstitutional, consequences.³³ (Emphasis and italics in the original)

Proceeding from the foregoing, the Court in *Acharon* enumerated the elements that need to be proven to hold an accused liable for violation of Section 5(i) of R.A. 9262, *viz.*:

- (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 willfully refuses to give or consciously denies the woman and/or her child or children financial support that is legally due her and/or her child or children; and
- (4) The offender denied the woman and/or her child or children the financial support for the purpose of causing the woman and/or her child or children mental or emotional anguish.³⁴

Applying the foregoing to the instant case, the Court holds that, contrary to the findings of the courts *a quo*, the prosecution failed to prove the third and fourth elements thereof.

Apart from establishing the relationship of the parties and that Calingasan left home sometime in 1998, not a single evidence was offered by

³³ Id. at 6-7.

³⁴ Id. at 8.



the prosecution to establish that Calingasan deliberately or willfully refused to provide private complainant and their child the financial support legally due them. Also, no proof was adduced showing that Calingasan’s supposed failure or refusal to provide financial support caused private complainant and their child mental and emotional anguish, public ridicule or humiliation.

On the contrary, records of the case evidently showed that Calingasan, for a time, provided private complainant and their child financial support and that his subsequent failure to do so was due to circumstances beyond his control. Calingasan testified under oath and presented documentary evidence showing that he was arrested in Canada and incarcerated for almost six (6) years.³⁵ When he was released from prison, Calingasan tried to look for a permanent job but was not able to find one. He had since then relied upon the support and help of his siblings.³⁶

These pieces of evidence, unrebutted by the prosecution, belie the accusations that (1) Calingasan deliberately denied private complainant and BBB financial support and (2) the denial of financial support was intended to cause private complainant and BBB mental or emotional anguish, public ridicule or humiliation. Therefore, Calingasan cannot be convicted for violation of Section 5(i) of R.A. 9262.

Neither is Calingasan guilty of violating Section 5(e) of R.A. 9262.

Similar to Section 5(i), Section 5(e) also involves the denial of financial support legally due the woman and her child, viz.:

SEC. 5. *Acts of Violence Against Women and Their Children.* — The crime of violence against women and their children is committed through any of the following acts:

x x x x

(e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman’s or her child’s freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or her child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman’s or her child’s movement or conduct:

x x x x

³⁵ See TSN, June 8, 2015, pp. 8-20.

³⁶ Id. at 12-13; see also TSN, February 22, 2016, pp. 3-4.



(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support[.]

In the cases of *Melgar v. People*³⁷ (*Melgar*) and *Reyes v. People*³⁸ (*Reyes*), the Court, applying the variance doctrine, had previously ruled that an accused may be convicted of violating Section 5(e), instead of Section 5(i), as long as the denial or deprivation of financial support by the accused has been established by the prosecution; because the former specifically penalizes the deprivation of financial support by itself, even in the absence of psychological violence.³⁹

However, in *Acharon*, the Court *en banc* abandoned its ruling in *Melgar* and *Reyes*. The Court clarified that Section 5(e) and Section 5(i) of R.A. 9262 penalize two distinct crimes. Section 5(i) punishes the **willful infliction of psychological violence** upon the woman and her child by denying them the financial support that is legally due them. Section 5(e), on the other hand, penalizes the deprivation of financial support **“for the purpose of controlling or restricting the woman’s or her child’s movement or conduct.”**⁴⁰ Thus, while both provisions indeed involve the denial or deprivation of financial support, each of these provisions punishes entirely different acts. As such, the variance doctrine does not apply to convict an accused for the other crime.

Further, the Court reiterated that mere failure or inability to provide financial support is insufficient to warrant a finding of guilt for violation of either provision. There must be both an allegation and proof of the existence of the requisite specific intent penalized under each of these provisions: for Section 5(i), that the denial of financial support was for the purpose of inflicting psychological violence upon the woman and her child; while for Section 5(e), that the deprivation of financial support was for the purpose of controlling or restricting the woman’s or her child’s actions or decisions.

Therefore, for Calingasan to be held liable for violating Section 5(e), it must be alleged and proved that he deprived private complainant and their child the financial support legally due them, for the purpose of controlling their actions and decisions, which clearly are all wanting in this case. Again, to recall, what the evidence of the prosecution simply proved in this case is that Calingasan failed to provide financial support, and nothing more. This is also insufficient to warrant a guilty verdict for violation of Section 5(e) of R.A. 9262.

WHEREFORE, premises considered, the Petition is hereby **GRANTED**. The Decision dated December 15, 2017 and Resolution dated May 10, 2018 of the Court of Appeals in CA-G.R. CR No. 39417 are hereby

³⁷ G.R. No. 223477, February 14, 2018, 855 SCRA 522.

³⁸ G.R. No. 232678, July 3, 2019, 907 SCRA 479, 495.

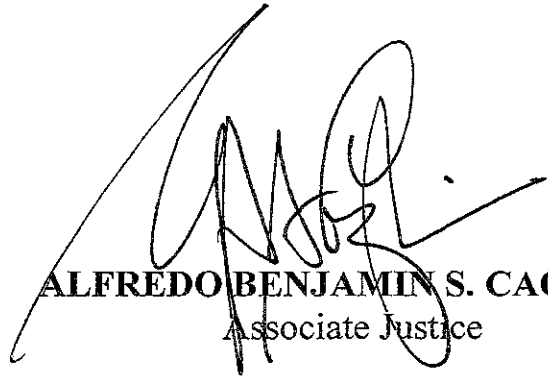
³⁹ *Melgar v. People*, supra note 37, at 533-534.

⁴⁰ *Acharon v. People*, supra note 32, at 20; emphasis supplied.



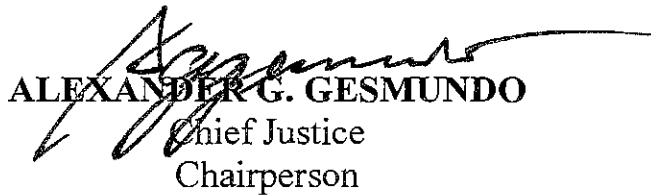
REVERSED and **SET ASIDE**. Accordingly, petitioner Cesar M. Calingasan is hereby **ACQUITTED** of the crime charged for failure of the prosecution to prove his guilt beyond reasonable doubt. Let an entry of final judgment be issued immediately.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

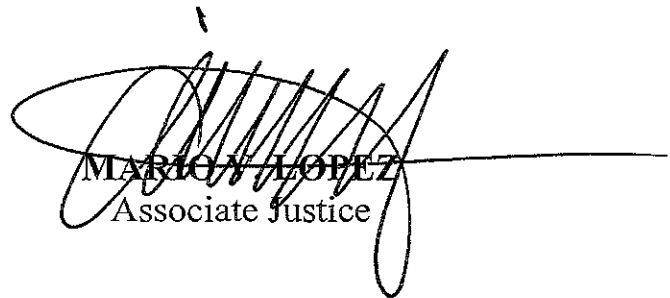
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice
Chairperson



AMY C. LAZARO-JAVIER
Associate Justice



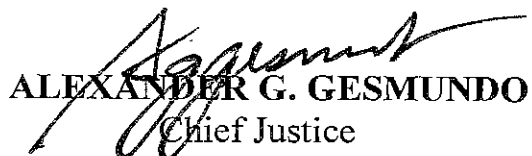
MARIO V. LOPEZ
Associate Justice



JHOSEP V. LOPEZ
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.



ALEXANDER G. GESMUNDO
Chief Justice

