



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**MICHAEL G. VALENCIA,**  
Petitioner,

**G.R. No. 244657**

Members:

LEONEN, *SAJ*, Chairperson  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., *JJ*.

-versus-

**PEOPLE OF THE  
PHILIPPINES,**  
Respondent.

Promulgated:

**FEB 12 2024**

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**DECISION**

**LAZARO-JAVIER, J.:**

This Petition<sup>1</sup> assails the following dispositions of the Court of Appeals in CA G.R. CR No. 01715 titled *People of the Philippines v. Michael Valencia*:

1. Resolution<sup>2</sup> dated October 10, 2018, affirming the conviction of petitioner Michael G. Valencia (Valencia) for adultery under Article 333 of the Revised Penal Code; and

<sup>1</sup> *Rollo*, pp. 3–15; By Atty. Christy Joy S. Sollesta.

<sup>2</sup> *Id.* at 49–50; Penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Tita Marilyn Payoyo-Villordon and Walter S. Ong of the Special Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

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2. Resolution<sup>3</sup> dated January 15, 2019 denying his Motion for Reconsideration.

### Antecedents

#### The Charge

In Criminal Case No. 44965-03, Rubirosa M. Ciocon (Rubirosa) and her alleged paramour, Valencia, were charged with adultery, *viz.*:<sup>4</sup>

That on or about 9:00 o'clock in the evening of December 2001 and sometime before and thereafter [in] General Santos City, Philippines and within the jurisdiction of this Honorable Court, said Rubirosa Ciocon, being then united in wedlock with the Private Complainant Ramon Chito A. Ciocon, did then and there wil[l]fully, unlawfully and feloniously have sexual intercourse with Michael [A.] Valencia[,] who is not her husband and her co-accused Michael [A.] Valencia, did then and there wil[l]fully, unlawfully and feloniously had carnal knowledge of her, knowing her to be married.<sup>5</sup>

On arraignment, Valencia pleaded not guilty to the charge against him.<sup>6</sup> Rubirosa remained at large.<sup>7</sup>

#### Prosecution's Version

**Ramon Chito T. Ciocon** (Ramon) testified that he married Rubirosa on August 19, 1991,<sup>8</sup> and that he is the father of Emmanuel Job Ciocon, Angelica Ciocon, Dane Ciocon, and Monaby Faith R. Ciocon (Monaby).<sup>9</sup> He was frequently out of the country, working as a 3<sup>rd</sup> engineer-seaman on a Japanese ship.<sup>10</sup> His wife, Rubirosa, operated a *karinderya* on Leon Lido Street, Lagao, General Santos City. She introduced Valencia to him as a customer of the *karinderya*. He later found out that his wife and Valencia were in a relationship.<sup>11</sup>

Every time he called home from abroad, it was his mother who answered the phone. The latter told him that "there is something wrong with his family" and that "he has to go home".<sup>12</sup> In August 2002, he went home to

<sup>3</sup> *Id.* at 52-53; Penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Tita Marilyn Payoyo-Villordon and Walter S. Ong of the Former Special Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

<sup>4</sup> *Id.* at 20.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 21.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 25.

<sup>9</sup> *Id.* at 24.

<sup>10</sup> *Id.* at 25.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

investigate and see for himself what was happening with his family.<sup>13</sup> It was only when he arrived that he discovered that his family left their house on Leon Lido Street, Countryside Subdivision, General Santos City to reside at Summerlight Subdivision, Polomolok, South Cotabato.<sup>14</sup> Subsequently, his daughter, Monaby, informed him that Rubirosa was living in the same house with Valencia.

He noticed that Rubirosa was uneasy whenever they were together. When he asked her what was going on, she cried and admitted that she was living with Valencia as they were in a relationship. Rubirosa admitted to loving Valencia and eventually left Ramon and his family.<sup>15</sup> Ever since, he no longer knew the whereabouts of Rubirosa.<sup>16</sup>

According to Ramon, the unfaithfulness of Rubirosa “was very painful” and “insulted his manhood.”<sup>17</sup> He filed the case against Rubirosa and Valencia so that they could “pay for their sins and be imprisoned.”<sup>18</sup>

**Monaby** identified Valencia in open court and testified that she is the daughter of Rubirosa and Ramon.<sup>19</sup> She observed that Valencia and Rubirosa were always together and that they were “lovey dovey and sweet,”<sup>20</sup> always hugging and kissing one another.<sup>21</sup>

When she was 8 years old, her family lived in a house at Countryside Subdivision. She and her siblings slept in the living room and noticed that Valencia was on the second floor and did not come down.<sup>22</sup> Out of curiosity, she went up to check on her mother. She opened the unlocked door, and in the illuminated room, she saw Rubirosa and Valencia together in bed, hugging and kissing each other.<sup>23</sup> When Rubirosa saw her, she got angry and shooed her away. After the incident, she chose to keep quiet because she was afraid of her mother.<sup>24</sup>

Monaby testified that Rubirosa and Valencia usually slept together in their house, although she could not tell if they were wearing undergarments, since they were always covered by a blanket. Every time she would see Valencia and her mother, the latter would get angry and tell her to get out of the room.<sup>25</sup>

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 22 and 25.

<sup>16</sup> *Id.* at 24–25.

<sup>17</sup> *Id.* at 25.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 22.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 23.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

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When they moved to the house at Summerlight Subdivision, Monaby said that Rubirosa and Valencia continued to hug and kiss each other.<sup>26</sup> More, she saw Rubirosa and Valencia naked in the bedroom.<sup>27</sup> When she went to get the clothes of her brother, she saw Rubirosa on top of Valencia. As soon as she was able to retrieve her brother's clothes she left out of shock and fear.<sup>28</sup>

She recalled that her father Ramon went to Polomolok, South Cotabato "to patch things up" but Rubirosa refused to live with him.<sup>29</sup> Rubirosa then left, and they no longer had any information on her whereabouts.<sup>30</sup>

### Defense's Version

**Valencia** testified that he was a supervisor at Ace Foods, Inc., a company which had an office a block away from Ramon's *karinderya*.<sup>31</sup> He was introduced to Ramon while he was eating at the said *karinderya*. He also admitted knowing Rubirosa from frequenting the *karinderya*. He nevertheless denied any sexual relations between himself and Rubirosa.<sup>32</sup>

### Ruling of the Metropolitan Trial Court in Cities

By its Decision<sup>33</sup> dated January 18, 2016, the Metropolitan Trial Court in Cities (MTCC) found Valencia guilty of adultery and sentenced him to suffer the penalty of *prision correccional* in its medium period or imprisonment for two years, four months, and one day to four years and two months, *viz.*:

WHEREFORE, in view of the foregoing, finding the Accused, Michael Valencia, GUILTY beyond reasonable doubt of the crime of "Adultery", he is hereby sentenced to suffer the penalty of *prision correccional* in its medium period or two (2) years, four (4) months and one (1) day to four (4) years and two (2) months.<sup>34</sup>

The MTCC held that the prosecution established all the elements of the crime beyond reasonable doubt.<sup>35</sup> It found that Monaby was a competent witness who provided straightforward testimony<sup>36</sup> and attested that Rubirosa and Valencia were frequently hugging and kissing, and that Valencia was

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 24.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 26.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 20–32; Penned by Presiding Judge Alejandro Ramon C. Alano.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 29.

<sup>36</sup> *Id.* at 30.

always in their house at Countryside Subdivision.<sup>37</sup> Too, it noted that Valencia failed to explain why he was found in the house of Rubirosa although he is not her husband.<sup>38</sup> Apart from Valencia's mere denial, he did not present any evidence that he was not at the place where the alleged sexual intercourse took place.<sup>39</sup> The MTCC concluded that strong circumstantial evidence and corroborative evidence are sufficient to sustain a conviction for adultery.<sup>40</sup>

The MTCC, however, refrained from discussing the acts allegedly committed by Valencia at Summerlight Subdivision, Polomolok, South Cotabato because the said place is beyond its territorial jurisdiction.<sup>41</sup>

By its Resolution<sup>42</sup> dated November 16, 2016, the MTCC denied Valencia's Motion for Reconsideration. It did not consider Valencia's claim that Ramon had already pardoned Rubirosa since Ramon and Rubirosa did not live as husband and wife after Ramon discovered Rubirosa's infidelity.<sup>43</sup> Further, contrary to Valencia's claim, proof of a physical sexual act is not necessary to convict one of adultery. Strong circumstantial evidence, such as the testimony of Monaby on the acts of Rubirosa and Valencia, is sufficient.<sup>44</sup>

### **Ruling of the Regional Trial Court**

In its Decision<sup>45</sup> dated November 24, 2017, the Regional Trial Court (RTC) affirmed Valencia's conviction. On the claim that Ramon had pardoned Rubirosa, the RTC found that though Ramon slept with Rubirosa in the same house for six or seven days, he did not have sexual relations with her.<sup>46</sup> As for the presence of the elements of the crime, the RTC held that there was no doubt that Ramon and Rubirosa were married, and that Valencia knew about Rubirosa's marriage to Ramon.<sup>47</sup> With respect to the element of sexual intercourse, strong circumstantial evidence has been adduced to prove the same.<sup>48</sup>

By its Order<sup>49</sup> dated July 20, 2018, the RTC denied Valencia's Motion for Reconsideration.

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<sup>37</sup> *Id.* at 29.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 29-30.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 31.

<sup>42</sup> *Id.* at 33-36; Penned by Acting Presiding Judge Joseph A. Palmes.

<sup>43</sup> *Id.* at 33-34.

<sup>44</sup> *Id.* at 35-36.

<sup>45</sup> *Id.* at 38-41; Penned by Presiding Judge Joyce Kho Mirabueno.

<sup>46</sup> *Id.* at 40.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 41.

<sup>49</sup> *Id.* at 46-48; Penned by Presiding Judge Joyce Kho Mirabueno.

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### Ruling of the Court of Appeals

By its Resolution<sup>50</sup> dated October 10, 2018, the Court of Appeals dismissed Valencia's appeal due to several procedural defects, *viz.*:

1. The docket and other legal fees are not paid violating Sec. 1, Rule 42 of the Rules of Court. The DBP Manager's Check in the amount of P5,530.00 was not accepted by the Cashier of this Court due to superimposition in its reference number;
2. The Office of the Solicitor General, as counsel for the State in all appealed criminal cases, was not furnished with a copy of the Petition disregarding Sec. 1, Rule 42, *supra*;
3. The Petition lacks a Written Explanation why it was FILED and SERVED by mail disregarding Sec. 11, Rule 13, *supra*;
4. The petitioner failed to show competent evidence of identity as affiant to the Verification and Certification of Non-Forum Shopping violating Sec. 12, Rule II of the 2004 Rules on Notarial Practice as amended by A.M. No. 02-8-13-SC dated February 19, 2008; and
5. Documents which are material and referred to in the Petition such as the Judicial Affidavit of the accused-petitioner and the Decision of the MTCC-Branch 3, General Santos city dated January 18, 2016 are not appended to the Petition violating Sec. 2 (d), Rule 42, *supra*.<sup>51</sup>

The Court of Appeals denied Valencia's Motion for Reconsideration in its Resolution<sup>52</sup> dated January 15, 2019. The Court of Appeals held that Valencia had not corrected the procedural errors brought to his attention.<sup>53</sup> More important, bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel the suspension of procedural rules.<sup>54</sup>

### The Present Petition

Valencia pleads anew for his acquittal.<sup>55</sup> He maintains that he must be benefited by the pardon allegedly extended by Ramon to Rubirosa since adultery cannot be prosecuted once the husband pardons either of the adulterers.<sup>56</sup> Said pardon, according to Valencia, was manifested through Ramon's act of: (a) embracing Rubirosa, and (b) living with Rubirosa in the house at Summerlight Subdivision upon returning to the Philippines.<sup>57</sup>

Valencia likewise assails the credibility of Monaby and the probative weight of her testimony because the latter "was clearly doing her father a

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<sup>50</sup> *Id.* at 49-50.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 52-53.

<sup>53</sup> *Id.* at 53.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 3-15; By Atty. Christy Joy S. Sollesta.

<sup>56</sup> *Id.* at 7-8.

<sup>57</sup> *Id.* at 7-10.

favor.”<sup>58</sup> He also claims that her testimony “is contrary to human experience” because she was able to “remember all the details” of an incident which took place when she was 8 years old, although she testified before the MTCC when she was already 18 years old.<sup>59</sup> Most importantly, Valencia claims that Monaby did not actually see Valencia and Rubirosa having sexual intercourse in the house at Countryside Subdivision.<sup>60</sup> In all, Valencia alleges that the prosecution failed to prove all the elements of the offense beyond reasonable doubt.<sup>61</sup>

Lastly, Valencia stresses that the Court of Appeals should not have dismissed his appeal because his “subsequent and substantial compliance . . . call[s] for the relaxation of the rules of procedure.”<sup>62</sup>

Under Resolution dated July 8, 2019, the Court directed the Office of the Solicitor General (OSG) to file its comment.<sup>63</sup>

In its Comment<sup>64</sup> dated October 23, 2019, the OSG counters that the Court of Appeals correctly dismissed Valencia’s appeal because the relaxation of procedural rules “applies only in proper cases and under justifiable causes and circumstances.”<sup>65</sup> It argues that Valencia’s unjustified noncompliance with the five procedural requirements clearly rendered his appeal fatally defective.<sup>66</sup>

### Ruling

Preliminarily, we find that the Court of Appeals did not err in dismissing Valencia’s appeal solely on procedural grounds. Rule 42, Section 3 of the Rules of Court clearly states the consequence of noncompliance with the prescribed procedure:

**SECTION 3.** *Effect of failure to comply with requirements.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

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<sup>58</sup> *Id.* at 10.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 11.

<sup>61</sup> *Id.* at 11–12.

<sup>62</sup> *Id.* at 12–14.

<sup>63</sup> *Id.* at 63.

<sup>64</sup> *Id.* at 73–80; By Solicitor General Jose C. Calida, Assistant Solicitor General Marissa Macaraig-Guillen, and State Solicitor I Jillian Marie B. Cc.

<sup>65</sup> *Id.* at 76.

<sup>66</sup> *Id.* at 78.

Although Valencia has shown that the Court of Appeals should have deemed the docket fees paid based on the Certification<sup>67</sup> dated February 8, 2019 issued by the Development Bank of the Philippines, the four other procedural infirmities observed by the Court of Appeals remain unexplained and unrectified. As such, Valencia's perfunctory invocation of "the interest of justice"<sup>68</sup> cannot prevail against his repeated noncompliance with procedural rules. *D.M. Wenceslao and Associates, Inc. v. City of Paranaque*<sup>69</sup> is in point:

[P]rocedural rules are not to be belittled or dismissed simply because their non-observance may have prejudiced a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed.<sup>70</sup>

Further, a petition for review on *certiorari* is narrowly confined to any of these two grounds: i.e., (a) when the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or (b) when the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.<sup>71</sup>

Absent any of these grounds cited or shown in the petition, there is no special reason to warrant the exercise of the Court's discretionary appellate jurisdiction here. To stress, the present Petition is a mere reiteration of the arguments already raised and passed upon in full by the MTCC and the RTC, and which were not considered by the Court of Appeals due to Valencia's own procedural lapses. Verily, the Petition should be denied outright.

In any event, whether Valencia committed the adulterous act of engaging in sexual intercourse with a married woman not his wife, as narrated no less by Monaby, Rubirosa's own minor daughter, and whether the offended husband has pardoned his unfaithful wife, are both pure questions of fact beyond the cognizance of the Court via Rule 45.<sup>72</sup>

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<sup>67</sup> *Id.* at 54.

<sup>68</sup> *Id.* at 12-14.

<sup>69</sup> 672 Phil. 35 (2011) [Per J. Villarama, Jr., First Division].

<sup>70</sup> *Id.* at 45.

<sup>71</sup> RULES OF COURT, Rule 45, Section 6.

<sup>72</sup> Section 1 of Rule 45 provides:

**Section 1. Filing of petition with Supreme Court.** — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. **The petition shall raise only questions of law which must be distinctly set forth.** (Emphasis supplied)

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Relatedly, when the issue is one of credibility of witnesses, the Court will generally not disturb the trial courts' factual findings.<sup>73</sup> Indeed, trial courts are in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during the trial. Here, both the MTCC and RTC found minor Monaby's testimony credible.<sup>74</sup> Valencia has not adduced any convincing reason for the Court to depart from said findings.

As well, the Court finds no error in Valencia's conviction for adultery. *First*, Rubirosa and Ramon's marriage was established by Ramon's presentation of their marriage contract showing that the couple had married on August 19, 1991. *Second*, Valencia admitted in his own affidavit cited by the MTCC that he knew Ramon as well as Ramon's wife, Rubirosa, because he frequented their *karinderya*, which was the only *karinderya* within the vicinity of his office.

*Finally*, as correctly held by the courts *a quo*, proof of the sexual intercourse between a married woman and a man who is not her husband may be established by circumstantial evidence.<sup>75</sup> In *United States v. Feliciano*,<sup>76</sup> the Court held that due to the nature of the crime of adultery, there may be some difficulty in establishing the elements of the offense by direct evidence. The Court therein considered the following circumstances sufficient to sustain a conviction for adultery:<sup>77</sup>

The nature of the crime of adultery is such that it will not be often when it can be established by direct evidence. Nevertheless, strong circumstantial and corroborative evidence such as will lead the guarded discretion of a reasonable and just man to the conclusion that the alleged act has been committed is sufficient to sustain a conviction for adultery. What is the proof, direct or circumstantial, in the present case?

Margarita Feliciano, the accused, was married to the complainant Felix Atacador on January 15, 1911. She left her husband on February 15, 1916. During the months of May, June, and a part of July of the same year, she lived in a rented house in Manila with Pedro Velasquez. The owner, who lived in the upper part of the same house, considered them to be man and wife. A photograph shows their intimate relations. A witness testified to having seen the accused and Velasquez in scant apparel and sleeping together. The woman and her paramour had the opportunity to satisfy their adulterous inclination. We think that a finding to the effect that Velasquez and the accused had carnal relations is sufficiently in accord with the probabilities of the case and the proof.<sup>78</sup>

<sup>73</sup> *People v. Mabalo*, 848 Phil. 173, 183 (2019) [Per J. Peralta, Third Division]; see also *People v. Bay-Od*, 845 Phil. 644, 651 (2019) [Per J. Peralta, Third Division].

<sup>74</sup> *Rollo*, pp. 30 and 40-41.

<sup>75</sup> *United States v. Feliciano*, 36 Phil 755 (1917) (Per J. Malcom, *En Banc*); *United States v. Legaspi*, 14 Phil 38 (1909) [Per J. Carson, First Division]; and *Mortiga v. Serra*, 5 Phil 35 (1905) [Per J. Willard, *En Banc*].

<sup>76</sup> 36 Phil 753 (1917) [Per J. Malcom, *En Banc*].

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 754-755.

Undeniably, similar circumstances that have been considered as sufficient for conviction are also present in this case. Ramon had been away working abroad as a seaman. He came home because he was cautioned that something was going on with his family. He did not even know that his family had moved to another house. More, Rubirosa herself admitted her relationship with Valencia. Monaby testified that Rubirosa and Valencia were always hugging and kissing each other and that they would even sleep together while covered by a blanket.

All things considered, these circumstances show that in the absence of Ramon and by living with Rubirosa, Valencia had the opportunity to commit adultery. In fact, Monaby had seen Rubirosa on top of Valencia, naked. There can be no other conclusion other than that sexual congress had taken place between Valencia and Rubirosa. Her betrayal of their marriage vows is apparently known even by those outside their household. Further, even if the Court does not consider Rubirosa's admission to Ramon of her relationship with Valencia, the testimony of Monaby amply stands to sustain Valencia's conviction for adultery.

**ACCORDINGLY**, the Petition is **DISMISSED** and the assailed Resolutions of the Court of Appeals dated October 10, 2018 and January 15, 2019 in CA G.R. CR No. 01715 are **AFFIRMED**.

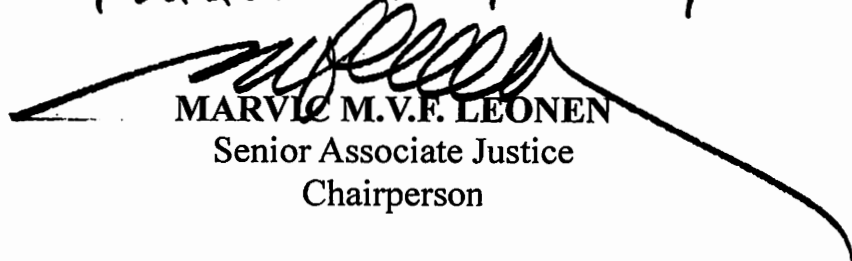
In Criminal Case No. 44965-03, petitioner Michael G. Valencia is **CONVICTED** of adultery under Article 333 of the Revised Penal Code. He is sentenced to *prision correccional* in its medium period or imprisonment for two years, four months, and one day to four years, and two months.

**SO ORDERED.**

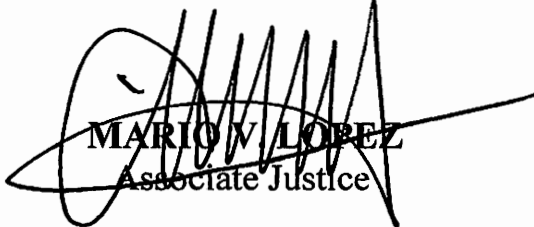
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**

*I dissent. See separate opinion*



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson



**MARIO V. LOPEZ**  
Associate Justice



**JHOSEP Y. LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice

**ATTESTATION**

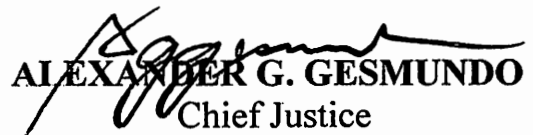
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice

