



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

DEPARTMENT OF FINANCE-
REVENUE INTEGRITY
PROTECTION SERVICE
(DOF-RIPS),

Petitioner,

-versus-

OFFICE OF THE OMBUDSMAN,
FREDERICK S. LEAÑO, AND
JEREMIAS C. LEAÑO,*

Respondents.

G.R. No. 257516

Present:

CAGUIOA, J., *Chairperson*,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.*

Promulgated:

May 13, 2024

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DECISION

CAGUIOA, J.:

The instant Petition¹ for *Certiorari* (Petition) seeks to set aside the Joint Resolution² dated October 1, 2020 of public respondent Office of the Ombudsman (OMB), which dismissed the criminal complaints of petitioner Department of Finance-Revenue Integrity Protection Service (DOF-RIPS) against private respondents Spouses Frederick and Jeremias Leaño (Spouses Leaño), for violations of Section 7 of Republic Act No. 3019,³ Section 8 of Republic Act No. 6713,⁴ and Article 171(4) on Falsification of Public Document and Article 183 on Perjury of the Revised Penal Code. The

* Also Jeremias S. Leaño in some parts of the *rollo*.

* On leave.

¹ *Rollo*, pp. 3–35.

² *Id.* at 36–48.

³ Anti-Graft and Corrupt Practices Act, approved on August 17, 1960.

⁴ Code of Conduct and Ethical Standards for Public Officials and Employees, approved on February 20, 1989.

Petition also assails the Joint Order⁵ dated February 9, 2021 of the OMB, which denied the DOF-RIPS' Consolidated Motion for Reconsideration.

The Case

The DOF-RIPS filed a Complaint before the OMB against Spouses Leñaño, who are both employees of the Bureau of Customs (BOC),⁶ for violations of the above-cited criminal laws and for Serious Dishonesty and Grave Misconduct. The DOF-RIPS alleged that pursuant to the conduct of a lifestyle check on Spouses Leñaño, it was discovered that they made untruthful, misleading, and incomplete declarations in their joint annual Statements of Assets, Liabilities and Net Worth (SALN). Specifically, there was allegedly a false declaration of a house and lot located in Montefaro Village, Imus City, Cavite (Montefaro property) in their 2006 to 2018 SALNs. Furthermore, the DOF-RIPS observed that Spouses Leñaño indicated in their 2007 to 2011 SALNs that the acquisition cost of said property was PHP 650,000.00, yet in their 2006 and 2012 to 2018 SALNs, they indicated the acquisition cost at only PHP 535,000.00.⁷

The DOF-RIPS also alleged that Spouses Leñaño failed to declare a house and lot located in Golden Villas Subdivision, Imus City, Cavite (Golden Villas property) in their 2009 to 2018 SALNs, and a business interest over Framille General Merchandise (Framille) in their 2012 SALNs.⁸

The DOF-RIPS pointed out that per verification with the Land Registration Authority, no real property was registered in the names of Spouses Leñaño or of any of their children. There was, however, a record of tax payments covering the Golden Villas property, with Spouses Leñaño as the declared owners of the property. No similar record existed insofar as the Montefaro property was concerned.⁹

As to Spouses Leñaño's alleged business interest over Framille, the DOF-RIPS averred that the documents gathered from the Department of Trade and Industry (DTI) and the Permits and Licenses Division of Imus, Cavite revealed Spouses Leñaño's ownership of Framille.¹⁰

Spouses Leñaño, in their Counter-Affidavit¹¹ dated May 4, 2020, explained the charges against them in this wise:

⁵ *Rollo*, pp. 49–53.

⁶ Frederick S. Leñaño as Customs Operations Officer III and Jeremias C. Leñaño as Customs Administrative Aide I.

⁷ *Rollo*, pp. 6–8.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 8.



1. There was no false declaration when they included the Montefaro property in their SALNs because they do own it, while the Golden Villas property actually belongs to Jeremias' sister, Josielyn Cari (Josielyn). It was Josielyn who initially purchased the Montefaro property through a loan with the Home Development Mutual Fund (Pag-IBIG). When she later realized that she could not continue the monthly amortization of the said property, Jeremias came to her rescue, albeit the loan remained in the name of Josielyn. Hence, Spouses Leaño and their children began residing in the Montefaro property in 2007, as evidenced by barangay certifications.¹²

Meanwhile, Josielyn thereafter discovered the Golden Villas property. But since she could no longer obtain another loan from Pag-IBIG, the same was secured by Jeremias in her name. As such, it was Josielyn who actually paid the loan obligation.¹³

Spouses Leaño further explained that when Jeremias and Josielyn attempted to arrange the proper transfer of the records of the loan agreements with Pag-IBIG, they were advised to have the titles transferred after the loans are paid in full, and that there was no immediate need to have the records properly transferred since there existed an implied trust between them as siblings anyway.¹⁴

As regards the discrepancies in the amount of the acquisition cost of the Montefaro property, Spouses Leaño admitted that it was borne out of their confusion over the swapping arrangement with Josielyn. They were unsure which of the two properties' acquisitions costs they should report.¹⁵

2. With regard to the non-declaration of Spouses Leaño's business and financial interest in their 2012 SALNs, they explained that while Framille was indeed registered with the DTI, said business did not take off. This was supported by a certification from the Imus City local government unit that no record of renewal of Business/Mayor's permit has been found from its database for calendar year 2013 up to present.¹⁶

In its Reply-Affidavit, the DOF-RIPS pointed out that a tax declaration was issued in the name of Jeremias on October 15, 2009 over the Golden Villas property. It maintained that the encumbrance annotated on a cancelled tax declaration shows that Jeremias purchased the property from its original owner for PHP 500,000.00 by virtue of a Deed of Sale dated February 4, 2009.¹⁷

¹² *Id.* at 8-9.

¹³ *Id.* at 9.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* 9-10.

¹⁷ *Id.* at 10.



In its assailed Joint Resolution¹⁸ dated October 1, 2020, the OMB dismissed the criminal complaints against Spouses Leño. The OMB noted that there was an agreement between Jeremias and Josielyn, which the OMB acknowledged as a typical arrangement among siblings. The veracity of this agreement was supported by the behavior of the siblings in occupying the properties. Thus, according to the OMB, no criminal intent could be clearly imputed against Spouses Leño.

The OMB also gave credence to Spouses Leño's claim that the varying amounts of acquisition cost in their SALNs were only due to their confusion as to how to treat the value of the properties they had swapped with Josielyn.¹⁹

Accordingly, the OMB concluded that the charges of falsification and perjury against Spouses Leño must also fail. It found that the allegations against them did not amount to a calculated, premeditated, and deliberate intention to misdeclare their properties. The alleged inconsistencies in their SALNs were a mere product of their honest assessment on how to treat the properties subject of Jeremias' arrangement with Josielyn. As such, minor errors in a SALN that do not relate to an attempt to conceal illicit activities should not be punishable.²⁰

As regards the failure to declare Spouses Leño's business interest in Framille, the OMB held that the registration with the DTI did not, *ipso facto*, prove actual business operation.²¹

The DOF-RIPS moved for reconsideration of the OMB's Joint Resolution, but the same was also denied in a Joint Order dated February 9, 2021.²²

Hence, this Petition.

Issue

The sole issue before the Court is whether the OMB committed grave abuse of discretion amounting to lack or excess of jurisdiction in rendering the assailed Joint Resolution and Joint Order.

The Court's Ruling

After a careful study of the allegations and the records of this case, the Court resolves to dismiss the Petition for failure to establish that the OMB

¹⁸ *Id.* at 36–48.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 49–53.



committed grave abuse of discretion amounting to lack or excess of jurisdiction.

As a general rule, the Court does not interfere with the OMB's exercise of its investigative and prosecutorial powers, and respects the initiative and independence inherent in said office.²³ In addition, the Court defers to the sound judgment of the OMB in recognition of the fact that a finding of probable cause is an executive determination and a highly factual inquiry which the OMB is best suited to make.²⁴ Where there is an allegation of grave abuse of discretion, however, the OMB's act cannot escape judicial scrutiny under the Court's own constitutional power and duty.²⁵

Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction. The OMB's exercise of power must have been done in an arbitrary or despotic manner that must be so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.²⁶ For *certiorari* to prosper, mere disagreement with the findings of the OMB is not sufficient. There must be a showing that it conducted its proceedings in such a way that amounted to a virtual refusal to perform a duty under the law.²⁷

In ascribing grave abuse of discretion against the OMB, the DOF-RIPS maintains that Spouses Leaño are criminally liable for making false declarations in their SALNs. The DOF-RIPS highlights the tax declarations of the properties of Jeremias and Josielyn, which show that the Montefaro property was under the name of Josielyn, while the Golden Villas property was under the name of Jeremias. Hence, according to the DOF-RIPS, it was untruthful for Spouses Leaño to declare the Montefaro property in their SALNs, while at the same time, omitting the Golden Villas property therefrom. The DOF-RIPS points out that the tax declarations are evidence of ownership, against which the barangay certifications pertaining to Spouses Leaño's occupancy of the Montefaro property should bear no weight.²⁸

Additionally, the DOF-RIPS insists that the fact that the business of Spouses Leaño in Framille did not take off in 2012 should not be sufficient reason to not declare said business in their 2012 SALNs. At the very least, the lack of actual business operation may be better threshed out in a trial.²⁹

²³ See *Casing v. Ombudsman*, 687 Phil. 468, 475 (2012) [Per J. Brion, Second Division].

²⁴ See *Camp John Hay Development Corporation v. Ombudsman, et al.*, G.R. No. 225565, January 13, 2021 [Per J. Leonen, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

²⁵ See *id.*

²⁶ See *Casing v. Ombudsman*, *supra* note 23 at 476.

²⁷ See *DOF-RIPS v. OMB and Gomez*, G.R. No. 236956, November 24, 2021 [Per J. Rosario, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

²⁸ *Rollo*, pp. 3–35.

²⁹ *Id.*



The DOF-RIPS likewise argues that the elements of Falsification of Public Documents are present when Spouses Leaño intentionally made misdeclarations, inconsistencies, and non-declarations in their SALNs, despite their known legal obligation to disclose the truth.³⁰

In the same vein, for repeatedly asserting falsehoods under oath in their SALNs even if they were required by law to declare true, detailed, and complete inventories of their properties, the DOF-RIPS argues that there is probable cause that Spouses Leaño committed multiple counts of perjury.³¹

The foregoing arguments, however, do not persuade and miserably fail to show how the OMB acted whimsically, arbitrarily, or capriciously in rendering its assailed Joint Resolution and Joint Order.

To be sure, the filing of a SALN under oath is required by the Constitution itself, as well as Republic Act Nos. 3019 and 6713, with the end in view of promoting transparency in the civil service and establishing a deterrent against government officials bent on enriching themselves through unlawful means.³² It must be sworn and its contents must be true and detailed.³³ In other words, it should be understood that the laws on SALN aim to curtail the acquisition of unexplained wealth. However, the Court has often cautioned that where the source of the undisclosed wealth can be properly accounted for, then it is “explained wealth” which the law does not penalize.³⁴

In *Bariata v. OMB, et al.*,³⁵ despite acknowledging that the private respondent therein failed to declare certain real properties in his SALNs, the Court agreed with the dismissal of the criminal complaint against him. The Court explained its ruling in this wise:

In this case, although Joselito failed to declare the parcels of land located in Banio Ibabang Mayao, Lucena City and covered by TCT Nos. T-57936, T-65839, T-84285, and T-82483, in his 2010-2013 SALNs, We nevertheless hold that the Ombudsman did not commit grave abuse of discretion in dismissing the criminal complaint against him.

Notably, Joselito readily admitted that the foregoing properties were still registered in his name, however he justified their non-declaration alleging that they were already subject of a levy on execution as early as 2005, and that he had already lost beneficial ownership of the same. As earlier discussed, although the properties were already subject of

³⁰ *Id.*

³¹ *Id.*

³² *See Ombudsman v. Rodas*, G.R. No. 225669, March 23, 2022 [Per J. Gaerlan, First Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website; *see also Abid-Babano v. Executive Secretary*, 860 Phil. 475 (2019) [Per C.J. Bersamin, *En Banc*].

³³ *DOF-RIPS v. OMB and Casayuran*, 883 Phil. 235, 252 (2020) [Per J. Carandang, Third Division].

³⁴ *Navarro v. Office of the Ombudsman*, 793 Phil. 453 (2016) [Per J. Mendoza, Second Division].

³⁵ G.R. No. 234640, February 1, 2023 [Per J. Gaerlan, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.



a levy on execution by virtue of a final and executory judgment in favor of BPI, nowhere in the records of the case does it show that the properties were subsequently subject of a sale on execution. Thus, they still remained to be properties of Joselito, which should have been declared in his 2010-2013 SALNs.

However, it has not been shown that the non-declaration of the parcels of land located in Barrio Ibabang Mayao, Lucena City and covered by TCT Nos. T-57936, T-65839, T-84285, and T-82483 was done with malicious or deliberate intent to conceal the truth. Joselito's omission was brought about by his incorrect interpretation and understanding of the legal effects of a levy on execution, and not due to any malicious or deliberate intent to conceal any "unexplained wealth."³⁶ (Emphasis supplied)

Similarly, in this case, there is evidently no malicious or deliberate intent on the part of Spouses Leñaño to make the inconsistent entries in their SALNs, nor to make any misdeclaration or non-declaration of their properties. As sharply observed by the OMB, Jeremias and Josielyn had a typical arrangement between siblings with regard to separate properties and loans they acquired on behalf of each other. Spouses Leñaño's explanation about this arrangement is bolstered by the certifications they presented, which showed that they were the actual occupants of the Montefaro property. These facts likewise dovetail with the claim of Spouses Leñaño that the arrangement with Josielyn brought about confusion on how to treat the value of the properties, and thus resulted in indicating varying amounts of acquisition cost in their SALNs.

In the same manner, Spouses Leñaño were also able to adequately explain their failure to declare their business interest in Framille. It was not egregious error for them to characterize a duly registered business that had already folded as no longer existent. Significantly, Spouses Leñaño presented a certification from the Imus City local government unit that no record of renewal of a business or Mayor's permit has been found from its database for calendar year 2013 up to present.³⁷

Thus, given the above logical and credible explanations of Spouses Leñaño, they should be afforded some leeway and measure of forbearance in their lapses in filling out their SALNs.

Also, it may not be amiss to point out at this juncture that Republic Act No. 6713 does not automatically impose liability on erring public officials or employees. Section 10 thereof and its Implementing Rules and Regulations (IRR) provide for a review and compliance procedure for SALN submissions and give public officials or employees an opportunity to correct erroneous entries or supply missing information in their SALN to conform to

³⁶ *Id.*

³⁷ *Rollo*, p. 41.



the prescribed requirements.³⁸ Under this procedure, the head of office has the authority to establish compliance procedures and review whether SALNs have been submitted on time, complete, and in the proper form. If it is determined that an employee did not file his or her SALN, or that the SALN has not been properly accomplished or has incomplete data, the head of office or compliance committee should inform the employee concerned and require him or her to file, correct, or supply the essential information, and make the necessary corrections.³⁹ Thus, if the head of office issued a written opinion pursuant to the review and compliance mechanism and the reporting individual acts in good faith in accordance with the opinion, the reporting individual cannot be subjected to the sanctions provided in Republic Act No. 6713.⁴⁰

In *OMB v. Salig*,⁴¹ the Court held that the review and compliance procedure under Republic Act No. 6713 and its IRR serves as a mechanism that affords the public official or employee a final opportunity to comply with the requirements before any sanction is meted out. It seeks a fuller and more accurate disclosure of the necessary information. The Court further clarified that while the SALN is an instrument that ensures accountability, the review and compliance procedure work as a buffer that prevents the haphazard filing of actions against public officials and employees.

Here, there is no indication that prior to the filing of the complaint against them, Spouses Leaño were given the opportunity to correct or fully explain the entries in their SALNs. Their failure to give a detailed explanation or supply missing information could have been prevented if they were properly apprised by the head of office or appropriate committee. Consequently, Spouses Leaño's failure to correct entries, supply missing information, or give proper attention to the filling out of their SALNs, without first calling their attention on the matter, cannot be considered as indicative of untruthful declaration of assets, absent any concrete proof.⁴²

As well, the Court agrees with the OMB that there is no probable cause to indict Spouses Leaño under Articles 171(4) of the Revised Penal Code.

Article 171, paragraph (4) of the Revised Penal Code, provides:

ART. 171. Falsification by public officer, employee or notary or ecclesiastic minister. — The penalty of *prision mayor* and a fine not to exceed [PHP 5,000.00] shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

³⁸ See *OMB v. Salig*, G.R. No. 215877, June 16, 2021 [Per J. Delos Santos, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³⁹ *Id.*

⁴⁰ *Carlos v. DOF-RIPS*, G.R. No. 225774, April 18, 2023 [Per SAJ. Leonen, *En Banc*]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁴¹ See *supra* note 38.

⁴² See *id.*



.....
4. Making untruthful statements in a narration of facts[.]

In *Galeos v. People*,⁴³ the Court identified the elements of falsification in the above provision as follows:

- a) the offender makes in a public document untruthful statements in a narration of facts;
- b) he [or she] has a legal obligation to disclose the truth of the facts narrated by him [or her]; and
- c) the facts narrated by him [or her] are absolutely false.⁴⁴

In addition to these elements, the Court also held that it must be proven that the public officer or employee had taken advantage of his or her official position in making the falsification. In falsification of public document, the offender is considered to have taken advantage of his or her official position when (1) he or she has the duty to make or prepare or otherwise to intervene in the preparation of a document; or (2) he or she has the official custody of the document which he or she falsifies.

Thus, as explained in *DOF-RIPS v. OMB and Ramirez*,⁴⁵ for liability to ensue under Article 171(4) of the Revised Penal Code, a public officer must wield particular power in relation to the preparation of a document closely related with his or her office and functions, such that no false declaration can be made were it not for the unique opportunities facilitated by the office one holds. The document's particular privity with one's office is essential.

The foregoing crucial element is absent in this case. Whatever mistakes Spouses Leaño committed were clearly not borne precisely and uniquely by their being Customs Operations Officer III and Customs Aide I in the BOC.⁴⁶ Verily, in *DOF-RIPS v. OMB and Casayuran (Casayuran)*,⁴⁷ a case involving a Customs Operations Officer III as well, the Court categorically held that the therein private respondent's position did not give her any specific power or function when it comes to her SALN, and that she was similarly situated with every other public officer or employee.

Anent the charge of perjury under Article 183 of the Revised Penal Code, the same must also fail. One of the elements of this crime is that in the statement or affidavit made by the accused, he or she made a willful and

⁴³ 657 Phil. 500 (2011) [Per J. Villarama, Jr., Third Division].

⁴⁴ *Id.* at 520. Citation omitted.

⁴⁵ G.R. No. 238510, July 14, 2021 [Per J. Leonen, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁴⁶ *See id.*

⁴⁷ *See supra* note 33.

deliberate assertion of a falsehood.⁴⁸ A mere assertion of a false objective fact, a falsehood, is not enough. The assertion must be deliberate and willful. Perjury being a felony by *dolo*, there must be malice on the part of the accused.⁴⁹ Considering, therefore, the explanation of Spouses Leaño about their lapses in filling out their SALNs, the same are clearly and convincingly just that—lapses—and do not evince a deliberate, willful, or malicious intent to do falsehood.

At any rate, the ruling of the Court in *Casayuran* is instructive on whether a charge under Article 183 of the Revised Penal Code may prosper alongside a charge of violation of Section 8 of Republic Act No. 6713:

Likewise, *Casayuran* cannot be held liable under Article 183 of the [Revised Penal Code]. The disclosure of a public officer or employee's properties is required under Sec. 8 of [Republic Act No.] 6713. Failure to comply with this provision is punishable by imprisonment of five (5) years or a fine not exceeding [PHP 5,000.00] or both, at the discretion of the court, under Sec. 11 of [Republic Act No.] 6713. The same provision provides that "if the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute." *Casayuran* may also be held liable for her failure to disclose all her properties in her SALNs for 2007, 2010, 2011, and 2012 under Article 183 of the [Revised Penal Code]. *Casayuran* certified in her SALNs for 2007, 2010, 2011, and 2012 that her properties are limited to those stated in her SALNs even though she also owns the *Sentra*. Her SALN[s] were required by law and were subscribed and sworn to before a person administering the oath. Article 183 imposes a penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum, or four (4) months and one (1) day to two (2) years and four (4) months. This is clearly less than the penalty imposed under [Republic Act No.] 6713. Pursuant to Section 11 of [Republic Act No.] 6713, *Casayuran* cannot be prosecuted under Article 183.⁵⁰

In all, the Court agrees with the OMB that there is no probable cause to charge Spouses Leaño for violations of Section 7 of Republic Act No. 3019, Section 8 of Republic Act No. 6713, and Article 171(4) on Falsification of Public Document and Article 183 on Perjury of the Revised Penal Code.

The Court stresses here anew that while due regard is rightly given to those charged with the duty of filtering malicious elements in the government service, such duty must be exercised with great caution as grave consequences may result therefrom. Public officials must be given the opportunity to explain any *prima facie* appearance of discrepancy in their SALNs.⁵¹ Considering that the real evil sought to be addressed is the accumulation of ill-gotten wealth, our legal system should guard against the weaponizing of SALNs where errors were made in good faith. A measure of

⁴⁸ See *Saulo v. People et al.*, 873 Phil. 630 (2020) [Per J. Reyes, Jr., First Division].

⁴⁹ *Id.* at 646.

⁵⁰ *DOF-RIPS v. OMB and Casayuran*, *supra* note 33 at 254–255.

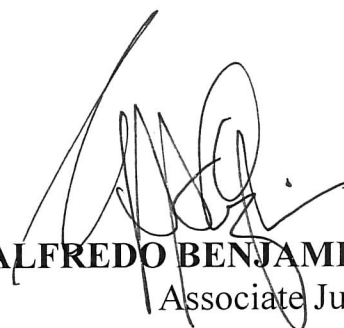
⁵¹ See *Navarro v. Office of the Ombudsman*, *supra* note 34 at 478.



leniency can be extended to casual, isolated, and/or infrequent non-declarations or misdeclarations that do not point to a scheme to mislead and defraud, and may be easily addressed by the customary corrective action enabled by Section 10 of Republic Act No. 6713.⁵²

ACCORDINGLY, the Court **DISMISSES** the Petition for *Certiorari* for lack of merit. The Joint Resolution dated October 1, 2020 and the Joint Order dated February 9, 2021 of the Office of the Ombudsman are **AFFIRMED**.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁵² See *DOF-RIPS v. OMB and Ramirez*, *supra* note 45.

WE CONCUR:



HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

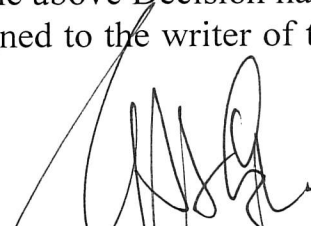


JAPAR B. DIMAAMPAO
Associate Justice

(On leave)
MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

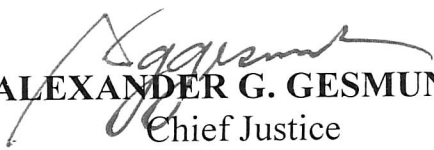
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified 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