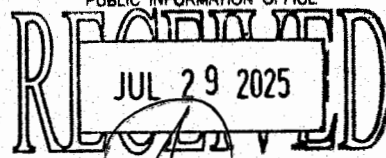




SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

DANIEL AQUINO y ESPIRITU,  
Petitioner,

G.R. No. 274077

Members:

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

— versus —

PEOPLE OF THE  
PHILIPPINES,  
Respondent.

Promulgated:

**FEB 24 2025**

X ----- X

DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for Review on *Certiorari*<sup>1</sup> assails the Decision<sup>2</sup> dated April 3, 2024 of the Court of Appeals in CA-G.R. No. 43676 affirming with modification the conviction of petitioner Daniel Aquino y Espiritu (Aquino)

<sup>1</sup> *Rollo*, pp. 7–21.

<sup>2</sup> *Id.* at 23–33. Penned by Associate Justice Michael P. Ong and concurred in by Associate Justices Ramon R. Garcia and Gabriel T. Robeniol of the Fifth Division, Court of Appeals, Manila.

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for homicide under Article 249<sup>3</sup> of the Revised Penal Code.

### **Proceedings Before the Trial Court**

#### ***The Charge***

Aquino was charged with homicide for the death of Lorvin Cordovez y Almera (Lorvin), viz.:

That, on or about the 13<sup>th</sup> day of April, 2014, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, a deadly weapon, with intent to kill, and without any justifiable cause, did then and there willfully, unlawfully and feloniously stab one Lorvin Cordovez y Almera, inflicting mortal wounds on the chest, which resulted to his death.

**CONTRARY TO LAW.**<sup>4</sup> (Emphasis in the original)

The case was raffled to Branch 153, Regional Trial Court, Taguig City.<sup>5</sup> On arraignment, Aquino pleaded not guilty.<sup>6</sup>

During the trial, the prosecution presented the testimonies of Lorvin's uncle Antonio Lazaro (Antonio), Lorvin's mother Lourdes A. Cordovez<sup>7</sup> (Lourdes), and medico-legal officer Police Senior Inspector Reah M. Cornelio (PSINSP Cornelio), while Aquino solely testified for the defense.<sup>8</sup>

#### ***Version of the Prosecution***

On the evening of April 13, 2014, Aquino and Lorvin were both present at the birthday celebration of their engineer on a construction site at the IMI Training Center, Bagumbayan, Taguig City. Aquino and Lorvin considered each other as relatives because Lorvin's aunt raised Aquino as her own child. They worked together as stay-in welders in the construction site. It was their uncle and site foreman Antonio who recruited them to work as welders.<sup>9</sup>

During the birthday celebration, two tables were set up and around 30 workers came to the party. As the evening progressed, the guests started

<sup>3</sup> REVISED PENAL CODE (1930), Article 249. Homicide. — Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

<sup>4</sup> *Rollo*, pp. 24–25.

<sup>5</sup> *Id.* at 36.

<sup>6</sup> *Id.* at 25.

<sup>7</sup> Sometimes referred to as "Lourdes Cordovez Almera" in some parts of the *rollo*.

<sup>8</sup> *Rollo*, pp. 37–38.

<sup>9</sup> *Id.* at 25.

leaving but there were those who continued to party, drink, and exchange stories.<sup>10</sup>

Facing one another on one of the tables, Lorvin abruptly asked Aquino why the latter was drawing a higher salary than him. Aquino replied that he did not know and told Lorvin to just ask their uncle, Antonio. Irrked by this response, Lorvin cursed at Aquino, who instantly moved to another table to avoid any altercation with Lorvin. But Lorvin followed Aquino and challenged him to a fist fight, resulting in a violent brawl between them. Things happened so fast that Aquino suddenly found himself lying on the ground with Lorvin on top of him.<sup>11</sup>

Aquino and Lorvin fought each other until Aquino was able to grab a knife and stab Lorvin. Although their co-workers were eventually able to pacify the two, Lorvin was already drenched in blood. They rushed the wounded Lorvin to the nearest hospital, but he was pronounced dead on arrival.<sup>12</sup>

Meanwhile, police officers went to the construction site and arrested Aquino.<sup>13</sup>

PSINSP Cornelio performed an autopsy on the body of Lorvin. Based on her Medico-Legal Report No. A14-232SPD, Lorvin sustained two stab wounds—one in the chest and another on the left thigh. PSINSP Cornelio pointed out that the stab wound inflicted on Lorvin's chest caused his immediate death since it pierced through his left lung, heart, and thoracic aorta.<sup>14</sup>

Lourdes, on the other hand, testified that as a result of her son's death, she incurred hospital, burial, and funeral expenses. As proof, she submitted an official receipt for funeral services amounting to PHP 27,500.00.<sup>15</sup>

### *Version of the Defense*

Aquino admitted to stabbing Lorvin but invoked self-defense.<sup>16</sup> He testified that on April 13, 2014, he and Lorvin were attending a birthday party when they unexpectedly had a brawl. During the fight, he caught himself lying on the floor with Lorvin on top of him. Lorvin strangled him in the neck with his left hand, while repeatedly punching him in the face with his other hand.

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<sup>10</sup> *Id.* at 23–24.

<sup>11</sup> *Id.* at 24.

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

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

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

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

While lying on the ground with Lorvin on top of him, Aquino tried to parry Lorvin's blows and at the same time grappled for any object which he could use to defend himself. Aquino grabbed the first item he came in contact with and used it to strike Lorvin. The blows coming from Lorvin suddenly stopped as Lorvin stood up profusely bleeding. He was then surprised to see that the item he grabbed to hit Lorvin was actually a knife.<sup>17</sup> Lorvin was taken to the hospital and he found out that Lorvin died. Later on, police officers arrived and arrested him.<sup>18</sup>

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

Under Decision<sup>19</sup> dated June 11, 2019, the trial court convicted Aquino of homicide, thus:

**WHEREFORE**, premises considered, there being an incomplete self-defense, **ACCUSED**, Daniel Aquino y Espiritu, is found **GUILTY** beyond reasonable doubt of the crime of Homicide. Pursuant to Article 69 of the Revised Penal Code and applying the Indeterminate Sentence Law, he is hereby sentenced to suffer the penalty of imprisonment of four (4) years and two (2) months of prision correccional medium, as minimum, to eight (8) years of prision mayor minimum, as maximum. He is likewise ordered to pay the heirs of the victim, Lorwin Cordovez, the following amounts; (a) [PHP]50,000.00 as civil indemnity; (b) [PHP]50,000.00 as moral damages; (c) [PHP]50,000.00 as exemplary damages; and (d) [PHP]27,500.00 as actual damages.

The damages awarded shall earn interest at the rate of 6% per annum from the date of the finality of this judgment.

**SO ORDERED.**<sup>20</sup> (Emphasis in the original)

In convicting Aquino, the trial court held that the second requisite for self-defense under Article 11(1) of the Revised Penal Code, i.e., reasonable necessity of the means employed to prevent or repel the aggression, was absent. Particularly, Aquino failed to prove the rational equivalence between the attack employed by Lorvin and the defense used by him to repel such attack. The stab wounds sustained by Lorvin also showed that Aquino ensured Lorvin's death.

Considering that there was incomplete self-defense, the trial court applied Article 69 of the Revised Penal Code on privileged mitigating circumstances and lowered the penalty for homicide by one degree. The trial court sentenced Aquino to *prision mayor* or the penalty one degree lower than *reclusion temporal*.

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

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

<sup>19</sup> *Id.* at 36–46. Penned by Presiding Judge Mariam G. Bien of Branch 153, Regional Trial Court, Taguig City.

<sup>20</sup> *Id.* at 45–46.

## Ruling of the Court of Appeals

By Decision<sup>21</sup> dated April 3, 2024, the Court of Appeals affirmed in the main but modified the maximum penalty imposed by the trial court, viz.:

**WHEREFORE**, premises considered, the appeal is DENIED. The Decision dated 11 June 2019 of the Regional Trial Court, Branch 153, Taguig City in Criminal Case No. 153777 is hereby **AFFIRMED with the sole MODIFICATION** that the maximum penalty is increased to 8 years and 1 day of *prision mayor* medium.

**SO ORDERED.**<sup>22</sup> (Emphasis in the original)

Applying the Indeterminate Sentence Law, the Court of Appeals increased the maximum penalty imposed from eight years of *prision mayor* to eight years and one day of *prision mayor*.

## The Present Petition

Aquino now seeks an acquittal. He faults the courts below in ruling that the second requisite for self-defense under Article 11(1) of the Revised Penal Code, i.e., reasonable necessity of the means employed to prevent or repel the aggression, was absent. The courts below allegedly disregarded the supposed clear evidence that it was Lorvin who initiated the unlawful aggression by challenging him to a fist fight. He also asserts that he only stabbed Lorvin to defend himself since Lorvin was strangling him with the left hand while repeatedly punching him in the face with the other hand. Lorvin did this while he was on top of him, pinning him on the ground. Thus, he asserts that the justifying circumstance of self-defense should be credited in his favor.<sup>23</sup>

On the other hand, the People, through the Office of the Solicitor General (OSG), mainly argues that: (1) the present Petition raises questions of fact which are outside the scope of Rule 45 of the Revised Rules of Court; and (2) the Court of Appeals correctly affirmed that self-defense was lacking since Aquino used a knife during the fist fight even though he only had one assailant who was even unarmed.<sup>24</sup>

## Our Ruling

We acquit.

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<sup>21</sup> *Id.* at 23–33.

<sup>22</sup> *Id.* at 32.

<sup>23</sup> *Id.* at 7–21.

<sup>24</sup> *Id.* at 50–66.

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Foremost, although questions of fact are ordinarily beyond the scope of a Rule 45 petition or appeal by *certiorari* in criminal cases, an appeal by *certiorari* throws the entire case wide open for review. Then the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as error. When a criminal case is appealed, the appellate court is conferred full jurisdiction over the case, and such appellate court is competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>25</sup>

Thus, in criminal cases, the Court is not precluded from reviewing the factual findings of the trial court, or even arriving at a different conclusion, if it is not convinced that these factual findings are in accordance with the evidence on record.<sup>26</sup> Among the exceptions is when the courts below misapprehended the facts, or when the findings of fact are conflicting.<sup>27</sup>

In this case, the trial court and the Court of Appeals misapprehended certain key facts in relation to the requisites of self-defense, and erred in holding that Aquino was not justified in stabbing Lorvin to death.

Aquino invokes self-defense under Article 11(1) of the Revised Penal Code, viz.:

ARTICLE 11. *Justifying Circumstances*. — The following do not incur any criminal liability:

1. Anyone who acts in defense of *his [or her] person* or rights, provided that the following circumstances concur:

*First*. Unlawful aggression;

*Second*. Reasonable necessity of the means employed to prevent or repel it;

*Third*. Lack of sufficient provocation on the part of the person defending himself.

<sup>25</sup> *Ramos v. People*, 803 Phil. 775, 783 (2017) [Per J. Perlas-Bernabe, First Division].

<sup>26</sup> *Lapi v. People*, 847 Phil. 38, 47 (2019) [Per J. Leonen, Third Division].

<sup>27</sup> *See Sps. Miano v. Manila Electric Company*, 800 Phil. 118, 123 (2016) [Per J. Leonen, Second Division]. The general rule for petitions filed under Rule 45 admits exceptions, to wit: "(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) **When the judgment is based on a misapprehension of facts**; (5) **When the findings of fact are conflicting**; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record." (Emphasis supplied)

To successfully invoke self-defense, the accused must satisfactorily prove the following elements: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself or herself.<sup>28</sup>

All three elements are present here.

For the first element, *People v. Nugas*<sup>29</sup> explained the nature of unlawful aggression, thus:

Unlawful aggression on the part of the victim is the primordial element of the justifying circumstance of self-defense. Without unlawful aggression, there can be no justified killing in defense of oneself. The test for the presence of unlawful aggression under the circumstances is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself; the peril must not be an imagined or imaginary threat. Accordingly, the accused must establish the concurrence of three elements of unlawful aggression, namely: (a) there must be a physical or material attack or assault; (b) the attack or assault must be actual, or, at least, imminent; and (c) the attack or assault must be unlawful.

Unlawful aggression is of two kinds: (a) actual or material unlawful aggression; and (b) imminent unlawful aggression. *Actual or material unlawful aggression means an attack with physical force or with a weapon, an offensive act that positively determines the intent of the aggressor to cause the injury.* Imminent unlawful aggression means an attack that is impending or at the point of happening; it must not consist in a mere threatening attitude, nor must it be merely imaginary, but must be offensive and positively strong (like aiming a revolver at another with intent to shoot or opening a knife and making a motion as if to attack). Imminent unlawful aggression must not be a mere threatening attitude of the victim, such as pressing his right hand to his hip where a revolver was holstered, accompanied by an angry countenance, or like aiming to throw a pot.<sup>30</sup> (Emphasis supplied, citation omitted)

Actual or material unlawful aggression contemplates the offensive act of using physical force or weapon which positively determines the intent of the aggressor to cause the injury.

Here, actual or material unlawful aggression exists because Lorvin committed a series of offensive acts which indubitably revealed his intent to harm Aquino. Notably, based on the prosecution's evidence itself, the aggression originated from Lorvin who persisted with his aggression. Aquino already tried to avoid any trouble with him by transferring to another table, but Lorvin pursued and even cussed Aquino. Prosecution witness Antonio also narrated that the incident happened so fast, that the next thing they saw

<sup>28</sup> *People v. Maghuyop*, 887 Phil. 147, 154 (2020) [Per C.J. Peralta, First Division].

<sup>29</sup> 677 Phil. 168 (2011) [Per J. Bersamin, First Division].

<sup>30</sup> *Id.* at 177-178.

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was Aquino already lying helpless on the ground with Lorvin on top of him. The prosecution too did not refute the testimony of Aquino that while in that position, Lorvin was striking him in the face and strangling him. While this was going on, Aquino aimlessly grappled for something he could use to defend himself. In so doing, he was able to grab something which he used to strike back at Lorvin. As a result, the latter loosened his grip, and stood up bloodied. It later turned out that what he was able to get hold of, which he used to strike back at Lorvin, was a knife.

Indeed, the attendant circumstances here unequivocally speak of the real and palpable peril posed by Lorvin on the life and limb of Aquino. Such peril was certainly far from fiction much less an imaginary threat. Therefore, the presence of unlawful aggression originating from Lorvin cannot be denied.

The next element is “*lack of sufficient provocation on the part of the person defending himself or herself.*” Lack of sufficient provocation means a person invoking self-defense should not have antagonized the attacker. Provocation is considered sufficient “*when it is proportionate to the aggression, that is, adequate enough to impel one to attack the person claiming self-defense.*”<sup>31</sup>

It is undisputed that Aquino did not sufficiently provoke Lorvin. In fact, both the prosecution and the defense were one in saying that it was Lorvin who provoked Aquino by confronting Aquino why he was drawing bigger salary than him. Then, Lorvin was outraged by the casual answer of Aquino that he better address his question to their uncle. Aquino even tried to avoid any more incident with Lorvin by moving to the next table. But Lorvin still pursued and followed him, and even cussed him. As a result, they engaged in a fight.

The last element is “*reasonable necessity of the means employed.*” In *People v. Olarbe*,<sup>32</sup> the Court extensively discussed how courts may determine the reasonable necessity of the means employed:

In judging pleas of self-defense and defense of stranger, the courts should not demand that the accused conduct himself with the poise of a person not under imminent threat of fatal harm. He had no time to reflect and to reason out his responses. He had to be quick, and his responses should be commensurate to the imminent harm. This is the only way to judge him, for the law of nature—the foundation of the privilege to use all reasonable means to repel an aggression that endangers one's own life and the lives of others—did not require him to use unerring judgment when he had the reasonable grounds to believe himself in apparent danger of losing his life or suffering great bodily injury. The test is whether his subjective belief as to the imminence and seriousness of the danger was reasonable or

<sup>31</sup> *Camillo v. People*, G.R. No. 260353, February 8, 2023 [Per J. M. Lopez, Second Division].

<sup>32</sup> 836 Phil. 1015 (2018) [Per J. Bersamin, Third Division].



not, and the reasonableness of his belief must be viewed from his standpoint at the time he acted. The right of a person to take life in self-defense arises from his belief in the necessity for doing so; and his belief and the reasonableness thereof are to be judged in the light of the circumstances as they then appeared to him, not in the light of circumstances as they would appear to others or based on the belief that others may or might entertain as to the nature and imminence of the danger and the necessity to kill.

....

Reasonable necessity of the means employed to repel the unlawful aggression does not mean absolute necessity. *It must be assumed that one who is assaulted cannot have sufficient tranquility of mind to think, calculate and make comparisons that can easily be made in the calmness of reason. The law requires rational necessity, not indispensable need. In each particular case, it is necessary to judge the relative necessity, whether more or less imperative, in accordance with the rules of rational logic. The accused may be given the benefit of any reasonable doubt as to whether or not he employed rational means to repel the aggression.*<sup>33</sup> (Emphasis supplied, citations omitted)

In *Ganal v. People*,<sup>34</sup> the deceased went to the house of the accused armed with a knife and started throwing stones. When the father of the accused tried to calmly ask the deceased to go home, the deceased pushed open the gate of the house and hit the accused's father in the chest, causing him to fall and pass out. Seeing this, the accused rushed inside the house, got his gun, and fired a warning shot in the air. When the deceased continued moving closer to the accused, the accused shot him once. But when the deceased did not retreat and instead continued moving forward, accused shot him four more times. The deceased consequently died right there and then. The Court ruled that the accused was justified in killing the deceased since he employed a rational means to repel the aggression. The Court stressed that the instinct of self-preservation prevailed upon the accused during the fateful incident.

Here, Aquino inflicted two stab wounds on Lorvin—one was inflicted in the leg which was not fatal. It could have been inflicted simply to weaken but not to kill. The second one though was fatal being directed into the chest. It seemed to have been the one that eventually caused Lorvin to loosen his grip on Aquino. The nature, number, and locations of these stab wounds indicate that the intention of Aquino was to simply repel the attack by Lorvin and never to kill the latter. The single fatal stab wound inflicted on Lorvin was a result of Aquino's instinct of self-preservation since Lorvin was on top of him, while strangling and punching him at the same time. At that very moment, and in that fatal position, it was expected for every mortal like Aquino to repel the aggression and defend himself from serious harm or even death.

<sup>33</sup> *Id.* at 1028–1029.

<sup>34</sup> 891 Phil. 588, 599 (2020) [Per J. Lazaro-Javier, Second Division].

To repeat, Aquino already tried to avoid an altercation with Lorvin, but Lorvin persisted and continued to advance his malevolent intent to harm Aquino. The prosecution itself narrated that things happened so swiftly that Aquino suddenly found himself lying on the ground with Lorvin on top of him, punching and strangling him. *How does one react to such a terrifying situation, if not to immediately defend oneself from being killed?*

As it was, Aquino testified that he grappled around him for any object to defend himself from the furious Lorvin. Then to his surprise, the item he grabbed to hit Lorvin turned out to be a knife. To our mind, the means employed by Aquino was rational enough to defend himself and repel Lorvin's aggression; and such defensive act was not coupled with any criminal intent—*actus non facit reum, nisi mens sit rea*.

Indeed, Article 4(1) of the Revised Penal Code, as amended, states that criminal liability shall be incurred by “*any person committing a felony (delito) although the wrongful act done be different from that which he intended.*” In this case, Aquino was not committing a felony when he stabbed Lorvin in self-defense. Therefore, he could not be held liable for the consequences of his act.

Self-defense is a justifying circumstance that relieves Aquino not only of criminal liabilities but also civil liabilities.<sup>35</sup> There is no civil liability incurred because Aquino acted without criminal intent and there was no crime committed in the eyes of law.

To be sure, “*the right of a person to take life in self-defense arises from his [or her] belief in the necessity for doing so; and his [or her] belief and the reasonableness thereof are to be judged in the light of the circumstances as they then appeared to him [or her], not in the light of circumstances as they would appear to others or based on the belief that others may or might entertain as to the nature and imminence of the danger and the necessity to kill.*”<sup>36</sup>

Verily, Aquino must be acquitted as a matter of right.

**ACCORDINGLY**, the Petition for Review on *Certiorari* is **GRANTED**. The assailed Decision dated April 3, 2024 in CA-G.R. CR No. 43676 of the Court of Appeals is **REVERSED**. Petitioner Daniel Aquino y Espiritu is **ACQUITTED** of homicide on the ground of self-defense.

Let entry of judgment be issued immediately.


<sup>35</sup> *Camillo v. People*, G.R. No. 260353, February 8, 2023 [Per J. M. Lopez, Second Division].

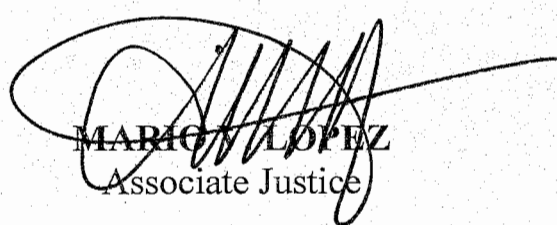
<sup>36</sup> *Ganal v. People*, 891 Phil. 588, 598 (2020) [Per J. Lazaro-Javier, Second Division]


**SO ORDERED.**

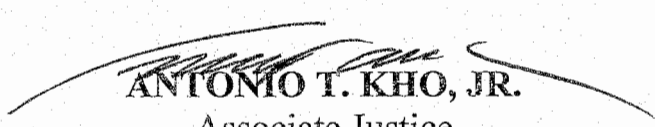
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**

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

  
**MARIGAY LOPEZ**  
Associate Justice

  
**JHOSEP V. LOPEZ**  
Associate Justice

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

**ATTESTATION**

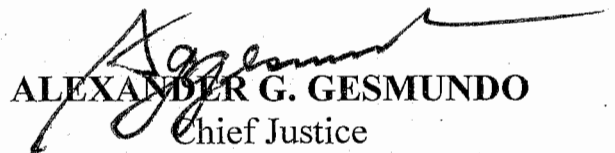
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**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