



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

LEO ABUYO y SAGRIT,
 Petitioner,

G.R. No. 250495

Present:

— versus —

PEOPLE OF THE
 PHILIPPINES,
 Respondent.

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

Promulgated:

JUL 06 2022

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DECISION

LOPEZ, M., J.:

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” — does not require the accused to use unerring judgment when they had the reasonable grounds to believe that they were in apparent danger of losing their lives or suffering great bodily injury.¹ We observe this doctrine in the Petition for Review on *Certiorari*² before this Court assailing the Decision³ dated June 28, 2019 and the Resolution⁴ dated November 12, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 41325.

ANTECEDENTS

On August 16, 2011, at around 7:30 p.m., petitioner Leo Abuyo y Sagrit (Leo) and his wife were heading home on board their motorcycle. Suddenly, Leo saw Cesar Tapel (Cesar) and his son, Charles Tapel (Charles), who were armed with a fan knife (*balisong*) and a gun, respectively. Thereafter, Cesar and Charles blocked Leo’s way. However, Leo swerved the motorcycle to the

¹ *People v. Olarbe*, 836 Phil. 1015, 1028–1029 (2018).

² *Rollo*, pp. 12–21.

³ *Id.* 27–36. Penned by Associate Justice Mariflor P. Punzalan Castillo, with the concurrence of Associate Justices Danton Q. Bueser and Rafael Antonio M. Santos.

⁴ *Id.* at 39–40.

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left and sped towards the house of his father, Leonardo Abuyo (Leonardo). Charles followed and went outside Leonardo's house which is just beside that of Leo's house. Furious, Charles kicked the bamboo fence of Leonardo's house, pointed his gun to people, and yelled for Leo to come out. Leonardo tried to pacify Charles, but Cesar arrived and stabbed Leonardo in the lower left part of his chest. Leonardo ran towards Leo's house, but Cesar still pursued him with the fan knife. At that instance, Leo went outside and chased Cesar to the former's house. In their confrontation, Cesar tried to stab Leo. As a defense, Leo got hold of a *bolo* on top of the table and hacked Cesar's right hand. Consequently, Cesar dropped the fan knife. Cesar managed to pick up the fan knife but Leo stabbed him again in the lower part of his stomach. Later, Cesar died due to stab injury on his left abdomen and multiple lacerated wounds on his right hand.⁵ Leo voluntarily surrendered himself to the authorities after the incident.⁶ Accordingly, Leo was charged with Homicide before the Regional Trial Court of Daet, Camarines Norte, Branch 38 (RTC), thus:

That on or about 7:30 o'clock (sic) in the evening of August 16, 2011 at Purok 1, Brgy. Dogongan, [M]unicipality of Daet, [P]rovince of Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, while armed with stones and bladed weapon (*bolo*), did, then and there, willfully, unlawfully and feloniously attack, assault and stab one CESAR TAPEL y BACERDO, hitting the latter on his left abdomen and other parts of his body that resulted to his untimely death, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.⁷

Leo pleaded not guilty.⁸ At the trial, Leo contended that he merely acted in self-defense and defense of a relative.⁹ In a Judgment¹⁰ dated December 8, 2017, the RTC convicted Leo of Homicide and ruled that he failed to prove all the elements of self-defense. The RTC found that Leo employed means that was not reasonably necessary to repel the unlawful aggression. However, the RTC appreciated the privileged mitigating circumstance of incomplete self-defense and the ordinary mitigating circumstance of voluntary surrender,¹¹ to wit:

WHEREFORE, judgment is rendered finding accused Leo Abuyo y Sagrit GUILTY beyond reasonable doubt of the crime of Homicide and he is sentenced to suffer indeterminate penalty of four (4) years, two (2) months[,] and one (1) day *prision correccional*[,] as minimum[,] to eight (8) years of *prision mayor*[,] as maximum.

The accused is further adjudged to pay the heirs of Cesar Tapel y Bacerdo civil indemnity of [P]50,000.00, moral damages of [P]50,000.00[,] and temperate damages of [P]30,000.00.

⁵ Id. at 28–29 and 51–53. See also TSN, June 14, 2012, pp. 4–14; and TSN, July 10, 2012, pp. 6–12.

⁶ *Rollo*, pp. 29 and 52. See also TSN, September 10, 2014, p. 7; and TSN, June 9, 2015, pp. 3–4.

⁷ Records, p. 1.

⁸ Id. at 24.

⁹ *Rollo*, pp. 29 and 51–52.

¹⁰ Id. at 51–57. Penned by Presiding Judge Roberto A. Escaro.

¹¹ Id. at 54–57.

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SO ORDERED.¹²

Leo elevated the case to the CA docketed as CA-G.R. CR No. 41325. In a Decision¹³ dated June 28, 2019, the CA affirmed the RTC's findings with modification as to the award of damages, *viz.*:

WHEREFORE, in view of the foregoing, the instant appeal is DENIED. The assailed Judgment dated December 8, 2017 rendered by the Regional Trial Court, Branch 38 of Daet, Camarines Norte finding the accused-appellant Leo Abuyo y Sagrit guilty beyond reasonable doubt of Homicide is AFFIRMED with MODIFICATION. Accused-appellant Leo Abuyo y Sagrit is sentenced to suffer the indeterminate penalty of imprisonment ranging from four (4) years, two (2) months[,] and one (1) day of *prision correccional*[,] as minimum, to eight (8) years of *prision mayor*, as maximum, and to pay the heirs of Cesar Tapel the amounts of [P]75,000.00 as moral damages, [P]75,000.00 as civil indemnity[,] and [P]50,000.00 as temperate damages.

SO ORDERED.¹⁴

Leo sought reconsideration but was denied in a Resolution¹⁵ dated November 12, 2019. Hence, this petition.¹⁶ Leo maintains that the means he employed was reasonably necessary to repel the unlawful aggression from Cesar and Charles, who were both armed and had clear intent to kill him.¹⁷

RULING

The petition is meritorious.

The admission of self-defense or defense of a relative frees the prosecution from the burden of proving that the accused committed the crime. The burden is shifted to the accused to prove that their act was justified. These justifying circumstances must be clearly established through convincing evidence. They cannot be appreciated if uncorroborated by competent evidence or is patently doubtful. Here, Leo admitted to be the author of Cesar's death but invoked the justifying circumstances of self-defense and defense of a relative.¹⁸ As such, the burden of evidence shifts to Leo to prove these defenses.¹⁹ In self-defense, the following elements must concur: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.²⁰ In defense of a relative, the accused likewise needs to establish the first two requisites of self-defense. In lieu of the third requirement, however, the accused must prove

¹² Id. at 56–57.

¹³ Id. at 27–36.

¹⁴ Id. at 36.

¹⁵ Id. at 39–40.

¹⁶ Id. at 12–21.

¹⁷ Id. at 17–19.

¹⁸ Id. at 29 and 51–52.

¹⁹ *Labosta v. People*, G.R. No. 243926, June 23, 2020, <<https://sc.judiciary.gov.ph/14874/>>.

²⁰ *People v. Antonio*, G.R. No. 229349, January 29, 2020, <<https://sc.judiciary.gov.ph/13073/>>.

that “*in case the provocation was given by the person attacked, that the one making the defense had no part therein.*”²¹

The first requisite of “*unlawful aggression on the part of the victim*” is the indispensable element of both self-defense and defense of a relative.²² If no unlawful aggression attributed to the victim was established, the defenses are unavailing for there is nothing to prevent or repel.²³ For unlawful aggression to be present, there must be a real danger to life or personal safety.²⁴ Anent the second requisite, “*reasonable necessity of the means employed to prevent or repel such aggression*” envisions a rational equivalence between the perceived danger and the means employed to repel the attack. Yet, the Court recognized that in self-defense or defense of a relative, the instinct for self-preservation will outweigh rational thinking. Thus, “*when it is apparent that a person has reasonably acted upon this instinct, it is the duty of the courts to sanction the act and hold the act irresponsible in law for the consequences.*”²⁵ The third requisite of “*lack of sufficient provocation*” requires the person invoking self-defense to not have antagonized the attacker. A provocation is deemed sufficient if it is “*adequate to excite the person to commit the wrong and must accordingly be proportionate to its gravity.*”²⁶

Here, it is undisputed that the first and third requisites of self-defense and defense of a relative are present. There was unlawful aggression when Cesar attacked and pursued Leonardo, and turned and attempted to stab Leo. In these circumstances, Leo had the right to repel the unlawful aggression in order to protect himself and his father. Also, there was no provocation on the part of Leo since the attack originated from Cesar and Charles. Leo and his wife were peacefully traversing their way home when Cesar and Charles blocked their way and chased them. Similarly, Leo was already in his father’s house when Cesar and Charles started the commotion.

Nonetheless, the CA and the RTC held that Leo failed to prove the second requisite of reasonable necessity of the means employed to prevent or repel the unlawful aggression.²⁷ Notably, this requisite does not imply material commensurability between the means of attack and defense. What the law requires is rational equivalence which presupposes the consideration not only of the nature and quality of the weapons used by the defender and the assailant – but of the totality of circumstances surrounding the defense vis-à-vis the unlawful aggression.²⁸ Moreover, 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

²¹ *People v. Eduarte*, 265 Phil. 304, 309 (1990).

²² *People v. Fontanilla*, 680 Phil. 155, 165 (2012).

²³ *Calim v. CA*, 404 Phil. 391, 402 (2001).

²⁴ *Andal v. Sandiganbayan*, 258-A Phil. 591, 596 (1989).

²⁵ *People v. Encomienda*, 150-B Phil. 419, 434 (2003).

²⁶ *People v. Nabora*, 73 Phil. 434, 435 (1941).

²⁷ *Rollo*, pp. 34 and 55–56.

²⁸ *Espinosa v. People*, 629 Phil. 432, 438 (2010); and *People v. Gutual*, 324 Phil. 244, 259–260 (1996).

doubt as to whether or not they employed rational means to repel the aggression.²⁹

Corollarily, the courts should not demand that the accused conduct themselves with the poise of a person not under imminent threat of fatal harm. 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 accused had no time to reflect and to reason out their responses. The test is whether the accused's subjective belief as to the imminence and seriousness of the danger was reasonable or not,³⁰ and the reasonableness of the accused's belief must be viewed from their standpoint at the time they acted.³¹ The right of a person to take life in self-defense and defense of a relative or a stranger arises from their belief in the necessity for doing so; and such belief and reasonableness thereof are to be judged in light of the circumstances as they then appeared to the accused, not in 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.³²

In this case, the Court finds that Leo used reasonable means to defend himself and his father. The facts show that even after Leo hacked Cesar's right hand, Cesar's unlawful aggression did not cease when he regained possession of the knife. At that point, Cesar's determination to kill Leo and Leonardo was aggravated — more imminent and more dangerously real — into a fixed mindset to subdue Leo's opposition. The CA and the RTC's reasoning that Leo could have grabbed Cesar's knife when it fell off, and that Leo could have escaped and run away³³ is unfathomable to a person juxtaposed in the same pressing situation. For one, there is no indication that the knife was remotely displaced from Cesar's location. In fact, Cesar immediately regained possession of his knife. The weapon did not fall far from Cesar's control. Cesar only lost grip of the knife momentarily. Yet, the CA and the RTC are still baffled why Leo did not strike another less fatal blow, enough to disable or disarm Cesar from pursuing further attacks, thus:

RTC Judgment

[Leo] testified that after [Cesar] stabbed his father, the latter ran towards [Leo's] house. Cesar, however, pursued and followed his father. When [Leo] tried to stop Cesar, the latter turned to him and tried to stab him with a knife. [Leo], however, was able to get hold of a *bolo* and, with it, struck Cesar's right hand such that Cesar lost hold of his knife (TSN, July 10, 2012, p.11). **At this juncture, [Leo] had opportunity to secure Cesar's knife, or run away, or strike Cesar in order to – and merely to – disable him from further attack.** However, [Leo] did not, and instead stabbed Cesar at the stomach after seeing that the latter was able to get back the knife. He

²⁹ *People v. Olarbe*, 836 Phil. 1015, 1029 (2018), citing *Jayne v. People*, 372 Phil. 796, 803–804 (1999).

³⁰ *People v. Olarbe*, *id.*, citing *Baker v. Commonwealth*, 677 S. W. 2d 876.

³¹ *People v. Olarbe*, *id.*, citing *State v. Leidholm*, 334 N. W. 2d 811; and *Tanguma v. State, App. –Corpus Christi*, 721 S. W. 2d 408.

³² *People v. Olarbe*, *id.*, citing 40 CJS Sec. 131.

³³ *Rollo*, pp. 34 and 55–56.

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could have struck Cesar's hand again, but this did not come to his mind allegedly because of fear (TSN, July 10, 2012, p. 13). Be that as it may, stabbing Cesar at the stomach with a *bolo* is far from being a reasonable means to carry out [Leo's] intention to repel or parry Cesar's thrusts.³⁴ (Emphasis supplied)

CA Decision

[Leo] argues that stabbing Cesar on the stomach was reasonable, considering that Cesar was again in possession of the knife and was attempting to stab him. Further, [Leo] was afraid of Charles shooting him with his gun. OSG parries his arguments by stating that after Cesar had again picked up the knife, [Leo] could have just disarmed him again. Further, stabbing Cesar would not have prevented a gun attack on him by Charles. Thus, stabbing Cesar on the stomach was not necessary nor reasonable.

We agree with the OSG. As found by the trial court, [Leo] admitted that he had successfully disarmed Cesar. Although Cesar was able to regain possession of the knife, stabbing Cesar on the stomach was an extreme measure if the intention was truly to simply repel or parry the latter's thrusts. As compared to Cesar, [Leo] had the upper hand. He had a *bolo*, which could readily cause more damage than a fan knife. **To escape, [Leo] could have simply disarmed Cesar again, or even caused him injury to prevent him from further pursuit.** Instead, [Leo] dealt him a fatal wound, which was not warranted by the circumstances. Thus, the second requisite is lacking in this case.³⁵ (Emphasis supplied)

However, the CA and the RTC's identical reasoning is a product of tranquil minds basking in the comfort of judicial chambers. Unlike magistrates, Leo, at the narrow crossroads of survival and death, had no equanimity to think, calculate, and make comparisons that can easily be made in the calmness of reason. Confronted with immediate threat and danger to his life and his father's life, and terrorized by a looming vicious attack, he had no choice but to defend himself and his father against their wounded yet more angered assailant. Moreover, Leo's father was already wounded at that time. Leo's fear was compounded by such sight. The unavailability of any help from Leonardo doubly impelled Leo to adopt whatever means available to him to defend their lives against Cesar and Charles. Fear of death, and not criminal intent, is the powerful cause that moved Leo to struck wildly at their would-be killer. Leo stabbed blindly, thinking only to save his life and his father's. If it appeared later that Leo had wounded Cesar in a vulnerable body part, it was not because he was a cruel and bloodthirsty killer. The only reason was that Leo was fighting desperately for his very life and the life of his father. Leo was animated only by his mortal fear of the unyielding aggressor. Leo moved like a wild beast by the elemental instinct of survival, obviously but understandably undiscerning of the situs of his strikes.³⁶

³⁴ Id. at 55-56.

³⁵ Id. at 34.

³⁶ *People v. Agripa*, 284-A Phil. 93, 99-100 (1992).

In *People v. Olarbe*,³⁷ the accused and his wife were awakened by the sound of a gunshot and shouting from the deceased, who was holding a rifle and a *bolo*. The deceased forcibly entered the accused's house. When the deceased aimed the gun at the accused, the latter grabbed the gun and grappled for its possession. When the accused managed to wrestle the gun from the deceased, he shot the latter. However, the deceased still managed to get his *bolo* from his waist and turned his assault to the accused's common-law wife. The accused once again grabbed the *bolo* and hacked the deceased causing his death. In that case, the Court explained that all the elements of self-defense are present, *viz.*:

The courts ought to remember that a person who is assaulted has neither the time nor the sufficient tranquility of mind to think, calculate and choose the weapon to be used. **For, in emergencies of this kind, human nature does not act upon processes of formal reason but in obedience to the instinct of self-preservation; and when it is apparent that a person has reasonably acted upon this instinct, it is the duty of the courts to hold the actor not responsible in law for the consequences.** Verily, the law requires rational equivalence, not material commensurability[.]³⁸ (Emphasis supplied)

In *Ganal, Jr. v. People*,³⁹ the deceased went to the house of accused armed with a knife and started throwing stones. When the father of the accused tried to calmly ask the deceased to go home, he pushed open the gate of the house and hit the accused's father in the chest, causing the latter to fall and lose consciousness. 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. When the deceased did not retreat and instead continued moving forward, accused shot him four more times. The deceased died instantly. The Court ruled that the accused's killing of the deceased was justified. The Court stressed that the instinct of self-preservation prevailed upon the accused during the fateful incident.⁴⁰

Similarly, the particular circumstances which confronted Leo at the time of the incident condoned the means he employed to protect his father and himself. To reiterate, the measure of rational necessity is to be found in the situation as it appeared to Leo at the time of the incident. The law does not require that Leo should mete out his blows in such manner that, upon a calm and deliberate review of the incident, it will not appear that he exceeded the precise limits of what was absolutely necessary to put his antagonist *hors de combat*, or that he struck one blow more than what was absolutely necessary to save his own life, or that he failed to hold his hand so as to avoid inflicting a fatal wound where a less severe stroke might have served the purpose.⁴¹ Under such conditions, Leo cannot be expected to reflect coolly nor wait after each blow to determine its effects.

³⁷ 836 Phil. 1015 (2018).

³⁸ *Id.* at 1030

³⁹ G.R. No. 248130, December 2, 2020, <<https://sc.judiciary.gov.ph/16790/>>.

⁴⁰ *Id.*

⁴¹ *Cano v. People*, 459 Phil. 416, 436 (2003).

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More importantly, three crucial facts reveal that Leo was impelled by the instinct of self-preservation rather than the homicidal urge of one bent on killing. First, Leo never took advantage of the opportunity to race off an attack against the disarmed Cesar who lost grip of the knife. Leo could have preempted Cesar's repossession of the knife with swift, successive, and injurious blows. Rather, Leo held his ground and was forced to act only when Cesar repossessed the fan knife. Second, there was a threatening presence of Charles who was holding a gun that could be fired at any given moment during the incident. If Leo was actuated by homicidal intentions, he would have persisted in his attack against Cesar and thereafter, he would have also raced off an attack against Charles to preempt a possible gunfire. Leo would have attempted to kill Charles as well, but he did nothing of that sort. Leo only acted reactively and retaliated blows only against the striking aggressor. Third, Leo voluntarily surrendered himself to the authorities after the incident. As the Court repeatedly observed, unexplained flight is an indication of guilt.⁴² The guilty flee when no man pursueth but the innocent are as bold as a lion.⁴³

In sum, the rule is that the reasonable necessity of the means employed to repel or prevent the attack depends upon the imminent danger of injury.⁴⁴ Cesar's act of attacking Leo and Leonardo with a fan knife was a very real danger to their lives. Charles' possession of a gun, which could be fired anytime during the stabbing commotion, exacerbates the danger that lurks on Leo and Leonardo's mortality. Leo had to repel the best way he can especially that Leonardo, who was already injured, cannot be expected to aid in his defense. Lastly, that the stomach wound which Leo inflicted upon Cesar proved to be fatal does not make the means he employed any less reasonable under the circumstances. Taken together, Leo is entitled to an acquittal on the grounds of self-defense and defense of relative.

ACCORDINGLY, the petition is **GRANTED**. The Decision dated June 28, 2019 and the Resolution dated November 12, 2019 of the Court of Appeals in CA-G.R. CR No. 41325 are **REVERSED**. Petitioner Leo Abuyo y Sagrit is **ACQUITTED** of the crime of Homicide and **ORDERED** to be **RELEASED IMMEDIATELY** from detention, unless he is being lawfully held for another cause. Let entry of judgment be issued immediately.

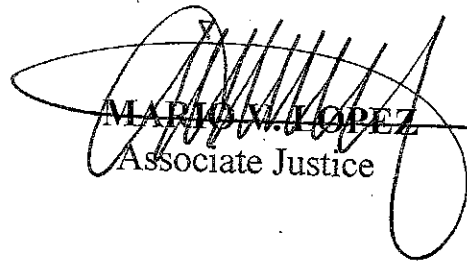
Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director is directed to report to this Court the action taken within five (5) days from receipt of this Decision.

⁴² *People v. Dejuocos*, 240 Phil. 425, 430 (1987); *People v. Hecto*, 219 Phil. 625, 635 (1985); and *People v. Millarpe*, 219 Phil. 508, 512-513 (1985).

⁴³ *People v. Espinosa*, 259 Phil. 884, 890 (1989).

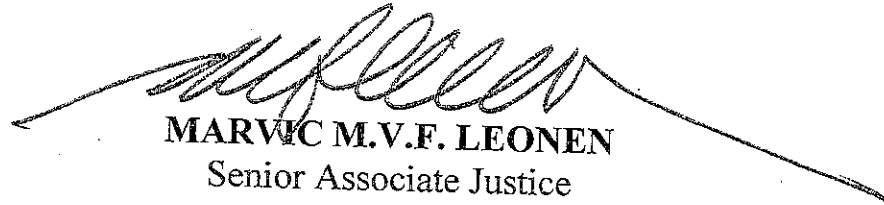
⁴⁴ *Masipequiña v. CA*, 257 Phil. 710, 717 (1989), citing *U.S. v. Paras*, 9 Phil. 367, 370 (1907).

SO ORDERED.

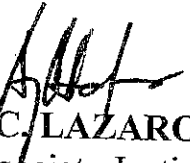


MARIO N. LOPEZ
Associate Justice

WE CONCUR:



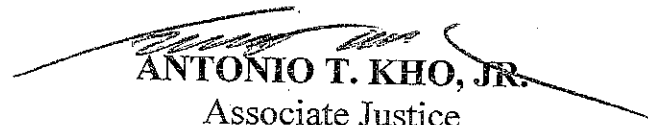
MARVIC M.V.F. LEONEN
Senior Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



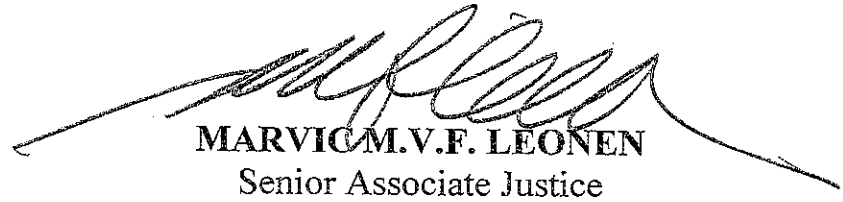
JHOSEP LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

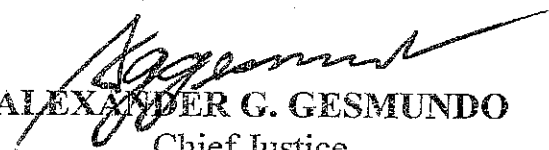
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice

