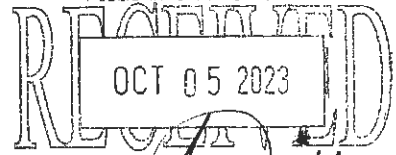




SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



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Republic of the Philippines
Supreme Court
Baguio City

EN BANC

JEREMY REYES y COLLANO,
Petitioner,

G.R. No. 255668

- versus -

Present:

PEOPLE OF THE PHILIPPINES,
Respondent.

**GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,*
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.**

Promulgated:

January 10, 2023

x-----*[Signature]*-----x

DECISION

KHO, JR., J.:

* On Leave.

[Handwritten mark]

Assailed in this Petition for Review on *Certiorari*¹ are the Decision² dated July 10, 2020 and the Resolution³ dated February 4, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 42825, which affirmed the Joint Judgment⁴ dated September 7, 2018 and the Order⁵ dated November 14, 2018 of the Regional Trial Court of Malolos City, Bulacan, Branch 20 (RTC) in Criminal Case No. 2739-M-2017, finding petitioner Jeremy Reyes y Collano⁶ (Reyes) guilty beyond reasonable doubt of the crime of Illegal Possession of Firearms and Ammunition, as defined and penalized under Section 28 (a) in relation to Section 28 (e)(1) of Republic Act No. (RA) 10591,⁷ otherwise known as the “Comprehensive Firearms and Ammunition Regulation Act.”

The Facts

This case stemmed from four (4) Informations⁸ filed before the RTC charging: (a) Reyes with Illegal Possession of Firearms and Ammunition, as defined and penalized under Section 28 (a) in relation to Section 28 (e)(1) of RA 10591; (b) Reyes and accused Lorenz Christian Alano y Faustino⁹(Alano) with Illegal Sale of Dangerous Drugs, as defined and penalized under Section 5 in relation to Section 26, Article II of RA 9165;¹⁰ and (c) Alano with Illegal Possession of Dangerous Drugs and Illegal Possession of Equipment, Instrument, Apparatus, and Other Paraphernalia for Dangerous Drugs, respectively defined and penalized under Sections 11 and 12, Article II of RA 9165, the accusatory portions of which read:

Criminal Case No. 2739-M-2017

(against Reyes for Illegal Possession of Firearms and Ammunitions)

That on or about the 25th day of March, 2017, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, have in his possession and control one (1) set improvised gun without serial number with one (1) piece of live ammunition of Caliber .45 without first obtaining a proper license or authority from the appropriate [government agency].

Contrary to law.¹¹

¹ *Rollo*, pp. 13-36.

² *Id.* at 38-46. Penned by Associate Justice Danton Q. Bueser with Associate Justices Geraldine C. Fiel-Macaraig and Tita Marilyn B. Payoyo-Villordon, concurring.

³ *Id.* at 48-48A.

⁴ *Id.* at 62-86. Penned by Presiding Judge Mirasol O. Dychingco.

⁵ *Id.* at 92-93.

⁶ Also known as “Jer Jer.”

⁷ Entitled “AN ACT PROVIDING FOR A COMPREHENSIVE LAW ON FIREARMS AND AMMUNITION AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF,” approved on May 29, 2013.

⁸ *Rollo*, pp. 63-64.

⁹ Also known as “Yan Yan.”

¹⁰ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

¹¹ *Rollo*, p. 63.

Criminal Case No. 2740-M-2017

(against Reyes and Alano for Illegal Sale of Dangerous Drugs)

That on or [about the] 25th day of March, 2017, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, without authority of law and legal [justification, did] then and there willfully, unlawfully and [feloniously sell,] trade, deliver and give away dangerous drug consisting [of one] (1) heat-sealed transparent plastic sachet of dried marijuana fruiting tops weighing 0.6040 gram.

Contrary to law.¹²**Criminal Case No. 2741-M-2017**

(against Alano for Illegal Possession of Dangerous Drugs)

That on or about the 25th day of March, 2017, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused without authority of law and legal justification, did then and there willfully, unlawfully and feloniously have in his possession and control dangerous drug consisting of three (3) heat-sealed transparent plastic sachets of dried marijuana fruiting tops weighing 0.9360 gram, 0.7796 gram and 1.2604, respectively.

Contrary to law.¹³**Criminal Case No. 2742-M-2017**

(against Alano for Illegal Possession of Equipment, Instrument, Apparatus, and other paraphernalia for Dangerous Drugs)

That on or about the 25th day of March, 2017, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused without authority of law and legal justification, did then and there willfully, unlawfully and feloniously have in [his possession and] control paraphernalia fit or intended for smoking, consuming or introducing dangerous drug into the body one (1) piece disposable lighter and one (1) piece improvised aluminum pipe.

Contrary to law.¹⁴

The prosecution alleged that on March 25, 2017, pursuant to a tip of a confidential asset that a certain “Jer Jer” (later identified as Reyes), was engaged in selling drugs, members of the Sta. Maria Police Station organized a buy-bust operation with PO1 Genesis Tolentino (PO1 Tolentino) as the poseur buyer and other members of the team as back-up and security. They then proceeded to Reyes’ house, where upon arrival, the confidential asset made a “*tsk tsk*” sound. Reyes peered through the window before opening it wide. After PO1 Tolentino and the confidential asset went inside, Reyes asked PO1 Tolentino how much they are going to buy, to which the latter replied ₱100.00. Subsequently, Reyes instructed a certain “Yan Yan,” later identified as Alano, to get ₱100.00 worth of marijuana from the table. Afterwards, Reyes

¹² Id. at 63-64.

¹³ Id. at 64.

¹⁴ Id.

gave the marijuana to PO1 Tolentino in exchange for a ₱100.00 bill. Thereafter, PO1 Tolentino held Reyes, which was the pre-arranged signal that the sale was already consummated. When the team arrived, they frisked Reyes and recovered from him the buy-bust money and an improvised gun loaded with ammunition. Afterwards, PO1 Tolentino arrested Alano and recovered from him one (1) plastic sachet of suspected marijuana, which was marked with "GBT-1." PO1 Tolentino then marked the gun with "GBT-7" and the ammunition with "GBT-6" in the presence of Reyes and the barangay officials. Upon subsequent verification with the Firearms and Explosives Office of the National Police Commission, it was discovered that Reyes had no authority to carry or possess any firearms, and that he was not a licensed firearm holder of any kind and caliber.¹⁵

For his part, Reyes denied the charges against him and claimed that during that time, he was at the house of Alano to invite him to attend a bible study at the Christ the Living Stone Fellowship Church. Thereafter, five (5) armed men forcibly entered the house and ordered them to lie face down on the ground while they searched for marijuana. The armed men then covered Reyes with a bath towel while PO3 Edward Israel kicked him. After stealing several items from the house, the police asset sealed a plastic sachet of marijuana and placed it on a table. Reyes claimed that he heard someone say that a bullet was found, after which, the police asset hit him with a belt, cursed him, and asked him if there was a gun in the house. He was likewise asked to sit on the sofa while the pieces of evidence were laid on the table. The police asset then told Reyes to pick up the pen gun so that "he could be killed." Afterwards, pictures were taken with the presence of a barangay councilor. A media representative arrived, after which they were taken to the Sta. Maria Police Station. His testimony was corroborated by the testimonies of Alano and Rodrigo Gaddi, a pastor at the Christ the Living Stone Fellowship Church.¹⁶

The RTC Ruling

In a Joint Judgment¹⁷ dated September 7, 2018, the RTC found Reyes **guilty** beyond reasonable doubt of Illegal Possession of Firearms and Ammunition, and accordingly, sentenced him to suffer the penalty of imprisonment for an indeterminate period of eight (8) years and one (1) day of *prision mayor*, as minimum, to nine (9) years and four (4) months of *prision mayor*, as maximum. However, it **acquitted** Reyes and Alano for Illegal Sale of Dangerous Drugs and Alano for Illegal Possession of Dangerous Drugs and Illegal Possession of Equipment, Instrument, Apparatus, and Other Paraphernalia for Dangerous Drugs for the prosecution's failure to prove their guilt beyond reasonable doubt.¹⁸

¹⁵ Id. at 39-40.

¹⁶ Id. at 68-70.

¹⁷ Id. at 62-86.

¹⁸ Id. at 85-86.

As to the crime of Illegal Possession of Firearms and Ammunition, the RTC ruled that the prosecution was able to prove all the elements of the crime charged since it was established that Reyes was found in possession of an improvised gun loaded with ammunition, and that based on the Certification¹⁹ dated June 19, 2017 issued by the Firearms and Explosive Office, he was not a licensed or registered firearm holder of any kind or caliber. The RTC further ruled that the inconsistencies in the testimony of PO1 Tolentino as to the kind of gun that was recovered from Reyes does not negate Reyes' conviction as the former was able to successfully identify the subject firearm in court. Finally, it gave credence to the positive testimony of PO1 Tolentino, which must prevail over Reyes' defense of denial.²⁰

As to the other charges, the RTC acquitted Reyes of the crimes charged for failure of the prosecution to prove the fourth link in the chain of custody over the seized items.²¹

Aggrieved, Reyes moved for reconsideration,²² which was denied in an Order²³ dated November 14, 2018; thus, he appealed to the CA.

The CA Ruling

In a Decision²⁴ dated July 10, 2020, the CA **affirmed *in toto*** the RTC ruling. It held that there was a valid search incidental to a lawful arrest as it was made following a buy-bust operation and that the police officers were justified in searching Reyes of any concealed weapon that he may use to facilitate his escape. It likewise found that the inconsistencies in PO1 Tolentino's testimony as to the name of the gun was immaterial as it was established that an improvised firearm was recovered from Reyes, which was corroborated by photographs taken at the time of the commission of the crime. Finally, it ruled that the prosecution was able to prove all the elements of Illegal Possession of Firearms and Ammunition as it was established that Reyes was in possession of a pistol loaded with ammunition without a license under his name.²⁵

Dissatisfied, Reyes moved for reconsideration,²⁶ which was denied in a Resolution²⁷ dated February 4, 2021; hence, the instant petition.

¹⁹ Not attached to the *rollo*.

²⁰ *Rollo*, pp. 70-78.

²¹ *Id.* at 78-85.

²² *Id.* at 87-91.

²³ *Id.* at 92-93.

²⁴ *Id.* at 38-46.

²⁵ *Id.* at 42-45.

²⁶ *Id.* at 108-115.

²⁷ *Id.* at 48-48A.

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The Issue Before the Court

The Core issue in this case is whether or not the CA erred in finding Reyes guilty beyond reasonable doubt of Illegal Possession of Firearms and Ammunition, as defined and penalized under Section 28 (a) in relation to Section 28 (e)(1) of RA 10591.

The Court's Ruling

The petition is unmeritorious.

Section 28 (a) in relation to Section 28 (e)(1) of RA 10591 provides:

SEC. 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* – The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

(a) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm;

x x x x

(e) The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:

(1) Loaded with ammunition or inserted with a loaded magazine[.]

To convict the accused of Illegal Possession of Firearms and Ammunition, the prosecution must be able to establish the following: (1) the existence of the subject firearm; and (2) the fact that the accused who possessed or owned the same does not have the corresponding license for it. If the firearm is loaded with ammunition, the penalty is increased one degree higher.²⁸

In this case, the prosecution was able to establish beyond reasonable doubt all the elements of the crime of Illegal Possession of Firearms and Ammunition as it was proven that: (a) petitioner was in possession of an improvised gun loaded with ammunition; and (b) the Certification issued by the Firearms and Explosives Office of the Philippine National Police revealed that Reyes was not a licensed/registered firearm holder of any kind or caliber. Further, the existence of the subject firearm and ammunition was properly accounted for by the prosecution as: (a) PO1 Tolentino immediately marked the seized firearm and ammunition at the place of arrest in the presence of

²⁸ *Castil v. People*, G.R. No. 253930, July 13, 2022 [Per J. Hernando, First Division]; citation omitted.

Reyes and the barangay officials; (b) PO1 Tolentino turned over the seized items to the crime laboratory for safekeeping; and (c) he was able to testify and identify the seized items during trial and offer the same as evidence in court. Furthermore, the inconsistencies in the testimony of PO1 Tolentino as to the nomenclature of the gun recovered from Reyes pertained only to trivial matters which do not affect his credibility as a witness.²⁹

Moreover, records reveal that the search made by the apprehending officers on Reyes, **being contemporaneous to a valid warrantless arrest, i.e., incidental to a legitimate buy-bust operation,**³⁰ was legal, and thereby making all the items seized therefrom admissible in evidence. Verily, both the courts *a quo* correctly found that there was a valid buy-bust operation against Reyes. In *People v. Alcira (Alcira)*,³¹ through Associate Justice Jhosep Y. Lopez, the Court held that the failure of the prosecution to prove compliance with the chain of custody rule for illegal drugs under Section 21 of RA 9165 does not amount to failure to prove the crime of illegal possession of firearms and ammunition, **if the latter charge does not go into the very transaction for which it was discovered, i.e., the buy-bust operation, viz.:**

The instant case must be distinguished from *Trinidad v. People [Trinidad]*. In the said case, this Court held that when the basis for the charge of the illegal possession of firearm goes into the very transaction for which it was discovered, and this transaction was proved to be illegal, then acquittal for illegal possession of firearms must likewise follow x x x[.]

x x x x

In contrast, the instant case presents a situation where the integrity of the *corpus delicti* was affected because of the failure of the police officers to follow the chain of custody, which prescribes the manner of authentication of the seized drugs.

We uphold the uniform findings of the RTC and the CA about the absence of any irregularity in the conduct of the buy-bust operation, which led to the seizure of the dangerous drugs and the unlicensed firearm. Hence, it cannot be said that the seized drugs and unlicensed firearm was the result of an unreasonable search. **Considering that these are separate crimes committed by accused-appellant, these should be separately examined based on the respective elements needed to be proven by the prosecution in order to overcome the presumption of innocence.**

x x x x

In this case, the credibility of the seized drugs was put in doubt because of the unjustified deviations committed by the police officers in the chain of custody. **As the issue does not revolve around admissibility, the items seized during the buy-bust operation cannot be said to be inadmissible. The weight of evidence to be accorded to the unlicensed**

²⁹ *People v. Mamaruncas*, 680 Phil. 192, 206 (2012) [Per J. Del Castillo, First Division].

³⁰ *Trinidad v. People*, 847 Phil. 305, 313 (2019) [Per J. Perlas-Bernabe, Second Division]. See also *People v. Marcelino*, 639 Phil. 643, 652 (2010) [Per J. Velasco, Jr., First Division].

³¹ G.R. No. 242831, June 22, 2022 [Per J. Lopez, Second Division].

firearm recovered during the buy-bust operation must thus be separately examined. Furthermore, while the failure of the prosecution to show that the seized evidence is what the proponent claims it to be may serve as a ground for acquittal, this is pertinent only to that particular charge where the *corpus delicti* was in issue. Simply put, each crime has their respective *corpus delicti*, which is inherent in the crime itself.

In the instant case, the failure of the prosecution to prove the integrity of the dangerous drugs does not amount to a failure to prove the crime of illegal possession of firearm of accused-appellant. **As the source by which the items were recovered is not irregular, the acquittal for one charge based on a defect in an inherent characteristic of a crime cannot serve as a bar to the prosecution of another crime. The crime of illegal possession of firearms can thus proceed independently of the crime of illegal sale and possession of dangerous drugs.**³² (emphasis and underscoring supplied)

Otherwise stated, in instances where criminal charges for violations of anti-drugs laws and illegal possession of firearms arose from the same factual circumstances, the acquittal in the former charge – which is grounded only on breaks in the chain of custody, **and not in the illegality of the search which led to the seizure of both drugs and firearms, i.e., validity of the buy-bust operation** – shall not result in a consequent acquittal in the latter charge, as in this case.

Moreover, it must be emphasized that the application of the chain of custody rule under Section 21 of RA 9165 has not been extended to other objects seized. In *People v. Olarte*,³³ the Court held that “if the proffered evidence is **unique, readily identifiable, and relatively resistant to change**, that foundation need only consist of testimony by a witness with knowledge that the evidence is what the proponent claims,”³⁴ thus:

Historically, the Court has applied the “chain of custody” rule as a mode of authenticating illegal drug substances in order to determine its admissibility. However, **such rule has not yet been extended to other substances or objects for it is only a variation of the principle that real evidence must be authenticated prior to its admission into evidence.** At this point, it becomes necessary to point out that the *degree of fungibility* of *amorphous objects* without an inherent unique characteristic capable of scientific determination, *i.e.*, DNA testing, is *higher* than stably structured objects or those which retain their form because the likelihood of tracing the former objects’ source is more difficult, if not impossible. Narcotic substances, for example, are relatively easy to source because they are readily available in small quantities thereby allowing the buyer to obtain them at lower cost or minimal effort. It makes these substances highly susceptible to being used by corrupt law enforcers to plant evidence on the person of a hapless and innocent victim for the purpose of extortion. Such

³² Id.

³³ 848 Phil. 821 (2019) [Per J. Gesmundo, First Division].

³⁴ Id. at 853-854.

is the reason why narcotic substances should undergo the tedious process of being authenticated in accordance with the chain of custody rule.

In this regard, the Court emphasizes that **if the proffered evidence is unique, readily identifiable, and relatively resistant to change, that foundation need only consist of testimony by a witness with knowledge that the evidence is what the proponent claims; otherwise, the chain of custody rule has to be resorted to and complied with by the proponent to satisfy the evidentiary requirement of relevancy.** And at all times, the source of amorphous as well as firmly structured objects being offered as evidence must be tethered to and supported by a testimony. Here, the determination whether a proper foundation has been laid for the introduction of an exhibit into evidence rests within the discretion of the trial court; and a higher court reviews a lower court's authentication ruling in a deferential manner, testing only for mistake of law or a clear abuse of discretion. In other words, the credibility of authenticating witnesses is for the trier of fact to determine.

In the case at hand, **the chain of custody rule does not apply to an undetonated grenade (an object made unique), for it is not amorphous and its form is relatively resistant to change.** A witness of the prosecution need only identify the hand grenade, a structured object, based on personal knowledge that the same contraband or article is what it purports to be — that it came from the person of accused-appellant³⁵ (emphases and underscoring supplied)

Evidently, the subject firearm and ammunition in this case were objects made unique; it is not amorphous and their forms were relatively resistant to change, unlike illegal drugs. Thus, a testimony showing the handling of the firearm and ammunition from the moment of their confiscation until they were turned over to the crime laboratory for examination and safekeeping, and their later identification to the court, will suffice, which the prosecution was able to establish in this case.

In sum, since there is no indication that the RTC and the CA overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.³⁶ As such, Reyes' criminal liability for Illegal Possession of Firearms and Ammunition must be sustained.

Reyes' criminal liability having been established, the Court now goes into the imposable penalty against him. Under Section 28 (a) of RA 10591, the penalty for Illegal Possession of Small Firearm is *prision mayor* in its medium period, or the penalty of eight (8) years and one (1) day to ten (10) years. Further, under Section 28 (e)(1) of the same Act, the penalty one (1) degree higher than that provided for under Section 28 (a), or the penalty of

³⁵ Id.

³⁶ *Cahulogan v. People*, 828 Phil. 742, 749 (2018) [Per J. Perlas-Bernabe, Second Division], citing *Peralta v. People*, 817 Phil. 554, 563 (2017) [Per J. Perlas-Bernabe, Second Division].

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prision mayor in its maximum period ranging from ten (10) years and one (1) day to twelve (12) years, shall be imposed if the small firearm recovered from the accused is loaded with ammunition.

Applying the Indeterminate Sentence Law, there being no mitigating and aggravating circumstance, there is a need to modify the sentence meted on Reyes. He should instead be sentenced to suffer the penalty of imprisonment for an indeterminate period of eight (8) years and one (1) day of *prision mayor*, as minimum, to ten (10) years, eight (8) months, and one (1) day of *prision mayor*, as maximum.

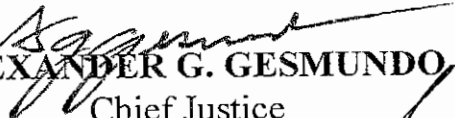
ACCORDINGLY, the instant petition is **DENIED**. The Decision dated July 10, 2020 and the Resolution dated February 4, 2021 of the Court of Appeals in CA-G.R. CR No. 42825 are **AFFIRMED with MODIFICATION**. Petitioner Jeremy Reyes y Collano is hereby found **GUILTY** beyond reasonable doubt of the crime of Illegal Possession of Firearms and Ammunition, as defined and penalized under Section 28 (a) in relation to Section 28 (e) (1) of Republic Act No. 10591, otherwise known as the "Comprehensive Firearms and Ammunition Regulation Act." In addition, he is sentenced to suffer the penalty of imprisonment for an indeterminate period of eight (8) years and one (1) day of *prision mayor*, as minimum, to ten (10) years, eight (8) months, and one (1) day of *prision mayor*, as maximum.

SO ORDERED.




ANTONIO T. KHO, JR.
Associate Justice

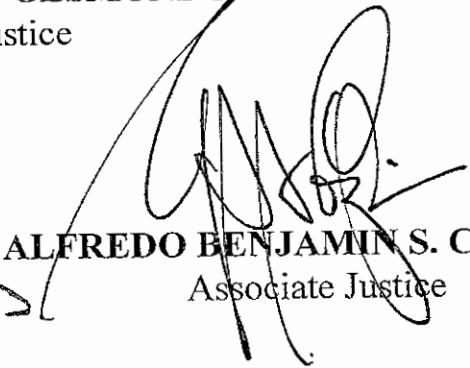
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M.V.F. LEONEN
Senior Associate Justice




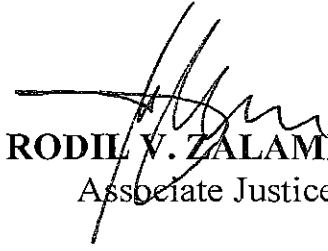
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

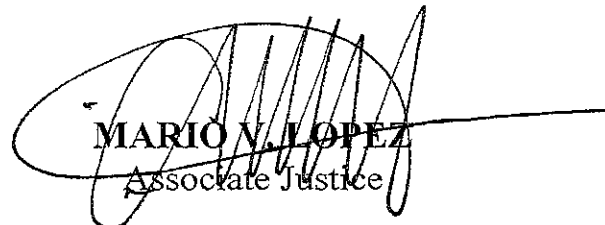
On Leave


RAMON PAUL L. HERNANDO
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice



MARIO N. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice

