



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PASTOR CORPUS, JR. *y*  
BELMORO,

G.R. No. 255740

Petitioner,

Present:

– versus –

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

PEOPLE OF THE PHILIPPINES,  
Respondent.

Promulgated:  
AUG 16 2023

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DECISION

LOPEZ, J., *J.*:

The accused cannot be convicted of an offense lesser than that charged if the lesser offense had already prescribed at the time the information was filed. To hold otherwise would be to sanction the circumvention of the law on prescription by the simple expedient of accusing the defendant of the graver offense.<sup>1</sup>

This Court resolves the Petition for Review on *Certiorari*<sup>2</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>3</sup> and the Resolution<sup>4</sup> of the Court of Appeals (CA), which affirmed the conviction of Pastor B. Corpus,<sup>5</sup>

<sup>1</sup> *Francisco v. Court of Appeals*, 207 Phil. 471, 477 (1983) [Per J. De Castro, Second Division].

<sup>2</sup> *Rollo*, pp. 19–43.

<sup>3</sup> *Id.* at 56–67. The March 13, 2020 Decision in CA-G.R. CR No. 43154 was penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Ramon M. Bato, Jr. and Walter S. Ong, Sixth Division, Court of Appeals, Manila.

<sup>4</sup> *Id.* at 45–46. The February 10, 2021 Resolution was penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Ramon M. Bato, Jr. and Walter S. Ong., Former Sixth Division, Court of Appeals, Manila.

<sup>5</sup> Also spelled as Corpuz in some parts of the *rollo*.

Jr. (*Pastor*) for slight physical injuries under Article 263 of the Revised of the Penal Code (*RPC*).

The case stemmed from the Complaint-Affidavit<sup>6</sup> dated April 30, 2018 executed by Roberto Amado Hatamosa (*Roberto*) for the purpose of instituting a criminal action against Pastor, Resurecion Zamora (*Resurecion*), and Felix Corpus (*Felix*). Roberto alleged that on November 25, 2017, at around 10:45 a.m., he was on his way to work in the barber shop when the three accused intercepted his way and shouted “*Ang yabang mong tumingin hindi pa tayo tapos.*” For his part, Roberto replied “*Tigilan mo ako tapos na tayo.*” It was at this juncture that Pastor allegedly punched Roberto in the face and was later joined by the two other accused, ultimately resulting in the infliction of physical injuries upon Roberto.

In its Resolution<sup>7</sup> dated April 30, 2018, the Senior Assistant City Prosecutor noted that, although the Medico-Legal Report of Roberto shows a period of three to nine days of treatment or incapacity, the Report likewise states that “there is a complete fracture at the proximal end of the fifth (5<sup>th</sup>) digit of the right hand.”<sup>8</sup> Based on the premise that a fracture constitutes a disfigurement of the finger, the Senior Assistant City Prosecutor recommended that the accused be indicted instead for serious physical injuries, and the case for slight physical injuries be dismissed for lack of merit.

Pastor and the two other accused were charged with the crime of serious physical injuries in an Information<sup>9</sup> dated April 30, 2018, the accusatory portion of which reads:

That on or about the 25<sup>th</sup> day of November 2017, in the City of Parañaque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and all of them mutually helping and aiding one another, did then and there willfully, unlawfully and feloniously attack, assault, and employ personal violence upon the person of complainant ROBERTO AMADO HATAMOSA, by then and there mauling him, which caused a fractured right finger, a disfigurement to the complainant.

CONTRARY TO LAW.<sup>10</sup>

Upon arraignment, Pastor pleaded not guilty to the crime charged against him.<sup>11</sup> After pre-trial was conducted, trial on the merits then ensued.<sup>12</sup>

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<sup>6</sup> *Rollo*, p. 143-144.

<sup>7</sup> *Id.* at 133-136.

<sup>8</sup> *Id.* at 135.

<sup>9</sup> *Id.* at 149.

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

<sup>11</sup> *Id.* at 154.

<sup>12</sup> *Id.* at 152-153.

In its Decision,<sup>13</sup> the Metropolitan Trial Court (*MeTC*) found that the evidence presented did not show the participation of the two other accused, Resurecion and Felix, in the mauling of Roberto. In contrast, all the testimonies of the prosecution witnesses were consistent that it was Pastor who punched Roberto in the face which caused the latter's bloody nose and required not less than three, but more than nine days to heal. Moreover, the MeTC held that it cannot hold Pastor accountable for the fracture on Roberto's finger considering that there is no evidence pointing to any of the accused as the cause of the said injury. Thus, the MeTC found Pastor guilty of slight physical injuries and disposed the case as follows:

Premises considered, the Court holds accused PASTOR CORPU[S], JR. y BELMORO GUILTY BEYOND REASONABLE DOUBT for the commission of the crime of SLIGHT PHYSICAL INJURIES and is hereby sentenced him (sic) to suffer the penalty of imprisonment of ARRESTO MENOR or 30 days. He is likewise ordered to pay the private complainant the amount of Ten Thousand Pesos (Php10,000.00) as moral damages.

For failure of the prosecution to present evidence beyond reasonable doubt, accused RESURECION ZAMORA y ESPANOLA and FELIX CORPUS y BELMORO are **ACQUITTED**.

**SO ORDERED.**<sup>14</sup>

Later, Pastor filed an appeal with the Regional Trial Court (*RTC*). However, the RTC affirmed the conviction of Pastor in its Decision<sup>15</sup> dated March 20, 2019, to wit:

WHEREFORE, premises considered the Appeal of accused-appellant Pastor Corpu[s], Jr. y Belmoro is dismissed and the Decision of the court a quo is affirmed.

**SO ORDERED.**<sup>16</sup>

Aggrieved, Pastor elevated the matter to the CA. Before the CA, Pastor argued that the Information charging him with slight physical injuries had prescribed since it was filed two months from the time of the alleged commission or discovery of the offense.<sup>17</sup> However, the CA affirmed Pastor's conviction, *viz.*:

<sup>13</sup> *Id.* at 92–103. The November 20, 2018 Decision in Criminal Case No. 18-1084 was penned by Presiding Judge Belen S. Salespara-Carasig, Metropolitan Trial Court, Branch 88, Parañaque City, National Capital Judicial Region.

<sup>14</sup> *Id.* at 102–103.

<sup>15</sup> *Id.* at 88–90. The March 20, 2019 Decision in Criminal Case No. 2019-0059 was penned by Presiding Judge Rolando G. How, Regional Trial Court, Branch 257, Parañaque City, National Capital Judicial Region.

<sup>16</sup> *Id.* at 90.

<sup>17</sup> *Id.* at 61.

**WHEREFORE**, premises considered, the Appeal filed by Pastor Corpus, Jr. y Belmoro on 29 April 2019 is **DENIED**. The Decision rendered by the Regional Trial Court, Branch 257, Parañaque City on 20 March 2019 in Criminal Case No. 2019-0059 is **AFFIRMED**.

**SO ORDERED.**<sup>18</sup>

Anent the issue of prescription, the CA reasoned that the Information filed against Pastor alluded to the crime of serious physical injuries, and not slight physical injuries as Pastor alleges.<sup>19</sup> Since the crime of serious physical injuries is punishable by *prision mayor*, *prision correccional* or *arresto mayor*, the said crime prescribes in fifteen (15), ten (10), or five (5) years, as the case may be.<sup>20</sup> Hence, the CA concluded that Pastor's criminal liability was not extinguished by reason of prescription since the Information was filed in court just less than half a year after the commission of the crime.<sup>21</sup>

Pastor filed a Motion for Reconsideration of the CA's Decision, but the same was denied by the CA in its February 10, 2021 Resolution.<sup>22</sup>

Hence, this Petition.

Before this Court, Pastor insists that the crime he allegedly committed had already prescribed.<sup>23</sup> He also argues that it was private complainant Roberto who initially attacked his wife, and he only acted in her defense.<sup>24</sup>

In its Comment,<sup>25</sup> the Office of the Solicitor General prays that the instant Petition be dismissed for lack of merit.

The issues raised in this Petition are as follows:

#### I

Whether the factual issues raised by Pastor Corpus, Jr. y Belmoro are beyond the ambit of a Petition for Review on *Certiorari* Under Rule 45 of The Rules of Court

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<sup>18</sup> *Id.* at 67.

<sup>19</sup> *Id.* at 63.

<sup>20</sup> *Id.* at 64.

<sup>21</sup> *Id.* at 65.

<sup>22</sup> *Id.* at 45–46.

<sup>23</sup> *Id.* at 25–39.

<sup>24</sup> *Id.* at 39.

<sup>25</sup> *Id.* at 240–257.

## II

Whether The CA correctly ruled that the information charging Pastor Corpus, Jr. y Belmoro for serious physical injuries had not prescribed; and

## III

Whether the CA correctly affirmed Pastor Corpus, Jr. y Belmoro's conviction for the crime of slight physical injuries

**This Court's Ruling**

We find merit in the Petition.

The variance doctrine, which allows the conviction of an accused for a crime proved which is different from, but necessarily included in the crime charged, is embodied in Section 4, in relation to Section 5 of Rule 120 of the Rules of Court, which reads:

Section 4. Judgment in case of variance between allegation and proof. — When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.

Section 5. When an offense includes or is included in another. — An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.

At surface level, it appears that the lower courts validly affirmed the conviction of Pastor for committing the crime of slight physical injuries against Roberto. Although the Information charged Pastor with serious physical injuries, the lower courts may validly find him guilty of slight physical injuries in accordance with the variance doctrine.

Be that as it may, a closer examination of the records reveals that although Pastor has been found to have committed the lesser crime of slight physical injuries, his criminal liability for the same has been extinguished by way of prescription.

In *Francisco v. Court of Appeals*,<sup>26</sup> the petitioner therein was charged with the crime of grave oral defamation. The trial court convicted the petitioner of the crime as charged. However, on appeal, the decision of the trial court was modified by the CA, finding the petitioner guilty of simple slander. Before this Court, the petitioner argued that since the CA had found that the offense committed was the lesser offense of simple slander, which prescribed in two months, the said court should have dismissed the case and sustained his acquittal on the ground that said crime had already prescribed. He pointed out that the alleged defamatory remarks were committed four months prior to the filing of the Information charging him of the greater offense of grave oral defamation. In acquitting the petitioner, this Court ruled that the accused cannot be convicted of an offense lesser than that charged if the lesser offense had already prescribed at the time the Information was filed:

Where an accused has been found to have committed a lesser offense includible within the offense charged, he cannot be convicted of the lesser offense, if it has already prescribed. To hold otherwise would be to sanction the circumvention of the law on prescription by the simple expedient of accusing the defendant of the graver offense. The principle has the support of overwhelming authorities in American jurisprudence:

“The general rule, as stated in 22 CJS, Criminal Law, sec. 225b, is ‘as a general rule, one indicted for an offense not barred by limitation, but convicted of a lesser included offense which is so barred, is entitled to discharge’, and in 15 Am. Jur., Criminal Law, Sec. 343; ‘It frequently happens that a change of felony includes an offense of a lower grade with a different period of limitation, so that, while the felony is not barred, the statute has run as to the lesser offense. In this situation, the rule is that if the statute has not run against the felony, while the lesser offense is barred, the bar cannot be evaded by indicting the defendant for the felony and convicting him of the lesser offense.’<sup>27</sup>” (Citation omitted)

To reiterate, the Information against Pastor charged him with unlawfully and feloniously attacking and employing personal violence upon Roberto, causing a fractured right finger, a disfigurement to the latter. This allegation constitutes the crime of serious physical injuries under Article 263 (3) of the RPC:

ARTICLE 263. *Serious physical injuries*. — Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries and shall suffer:

....

3. The penalty of *prision correccional* in its minimum and medium periods, if in consequence of the physical injuries inflicted, the *person injured shall have become deformed*, or shall have lost any other part of his body, *or shall have lost the use thereof*, or shall have been ill or incapacitated for the

<sup>26</sup> *Supra* note 1.

<sup>27</sup> *Id.* at 476–478.

performance of the work in which he as habitually engaged for a period of more than ninety days. (Emphasis supplied)

Since serious physical injuries is punishable by *prisión correccional*, a correctional penalty,<sup>28</sup> it prescribes in 10 years.<sup>29</sup> Meanwhile, what was ascertained from the evidence adduced during trial is the lesser crime of slight physical injuries under Article 266 of the RPC.<sup>30</sup>

Clearly, the crime of slight physical injuries falls under light offenses which prescribe in two months.<sup>31</sup>

Article 89(5) of the RPC expressly provides that “criminal liability is totally extinguished by prescription of the crime.”<sup>32</sup> Thus, when the MeTC rendered its Decision on November 20, 2018 and found Pastor guilty of slight physical injuries, it had no jurisdiction to sentence Pastor to suffer the penalty of imprisonment of *arresto menor* or 30 days since his criminal liability therefor had been totally extinguished.

A perusal of the records of the case reveals that the incident between Pastor and Roberto took place on November 25, 2017.<sup>33</sup> Roberto executed his Complaint-Affidavit before the prosecutor’s office on January 8, 2018.<sup>34</sup> However, the Information against Pastor was filed only on May 21, 2018.<sup>35</sup> In this regard, Article 91 of the RPC provides:

<sup>28</sup> ARTICLE 25. *Penalties Which May Be Imposed.* — The penalties which may be imposed, according to this Code, and their different classes, are those included in the following:

*Scale*  
*Principal Penalties*

....

*Correctional penalties:*  
*Prisión correccional*

....

<sup>29</sup> ARTICLE 90. *Prescription of Crimes.*

....

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.

....

<sup>30</sup> Article 266 of the Revised Penal Code provides: “Art. 266. *Slight Physical Injuries and Maltreatment.* - The crime of slight physical injuries shall be punished:

1. By *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period

2. By *arresto menor* or a fine not exceeding 200 pesos and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical attendance.

3. By *arresto menor* in its minimum period or a fine not exceeding 50 pesos when the offender shall ill-treat another by deed without causing any injury.”

<sup>31</sup> Article 90 of the Revised Penal Code provides: “Art. 90. *Prescription of crime.* — [ . . . ] Light offenses prescribe in two months. [ . . . ]

<sup>32</sup> Paragraph 5, Article 89 of the Revised Penal Code provides:

Art. 89. *How criminal liability is totally extinguished.* — Criminal liability is totally extinguished:

....

5. By prescription of the crime.

<sup>33</sup> *Rollo*, p. 88.

<sup>34</sup> *Id.* at 143–148.

<sup>35</sup> *Id.* at 149–150.

ARTICLE 91. Computation of prescription of offenses. – **The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information,** and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him. (Emphasis supplied)

We are not unmindful of the rulings of this Court in *Perez v. Sandiganbayan*<sup>36</sup> and *People v. Pangilinan*<sup>37</sup> when we declared that the commencement of the proceedings for the prosecution of the accused before the prosecutor's office effectively interrupts the prescriptive period for the subject offense. In *Panaguiton, Jr. v. Department of Justice*,<sup>38</sup> (*Panaguiton*) this Court explained the rationale for the rule:

**Indeed, to rule otherwise would deprive the injured party the right to obtain vindication on account of delays that are not under his control.** A clear example would be this case, wherein petitioner filed his complaint-affidavit on 24 August 1995, well within the four (4)-year prescriptive period. He likewise timely filed his appeals and his motions for reconsideration on the dismissal of the charges against Tongson. He went through the proper channels, within the prescribed periods. However, from the time petitioner filed his complaint-affidavit with the Office of the City Prosecutor (24 August 1995) up to the time the DOJ issued the assailed resolution, an aggregate period of nine (9) years had elapsed. Clearly, the delay was beyond petitioner's control. After all, he had already initiated the active prosecution of the case as early as 24 August 1995, only to suffer setbacks because of the DOJ's flip-flopping resolutions and its misapplication of Act No. 3326. **Aggrieved parties, especially those who do not sleep on their rights and actively pursue their causes, should not be allowed to suffer unnecessarily further simply because of circumstances beyond their control, like the accused's delaying tactics or the delay and inefficiency of the investigating agencies.** (Citation omitted and emphasis supplied)

Nonetheless, this Court clarified in the more recent case of *Republic v. Desierto*<sup>39</sup> (*Desierto*) that for crimes falling under the Rules of Summary Procedure and within the jurisdiction of Metropolitan Manila, the complaint or information referred to in Article 91 of the RPC is that which is filed in the proper court and not the complaint lodged by the offended party before the prosecutor's office:

Patently, the phrase "without need of a prior preliminary examination or preliminary investigation" found in Sec. 9 of the 1983 Rules on Summary Procedure is now deleted in the above-quoted provision. *Jadewell* declared that "[a]s provided in the Revised Rules on Summary Procedure, only the filing of an Information tolls the prescriptive period

<sup>36</sup> G.R. No. 245862 (2020) [Per J. Caguioa, First Division].

<sup>37</sup> 687 Phil. 95, 104–105 (2012) [Per J. Perez, Second Division].

<sup>38</sup> 592 Phil. 286, 297 (2008) [Per J. Hernando, First Division].

<sup>39</sup> G.R. No. 136506 (2023) [Per J. Hernando, First Division].





where the crime charged is involved in an ordinance.” Notably, the offense involved in *Jadewell* is a violation of city ordinance which, as provided in the Revised Rules on Summary Procedure, is commenced only by information except when the offense cannot be prosecuted *de officio*.

**In other words, in Metropolitan Manila and in Chartered Cities, prescriptive period is tolled only by the filing of an Information in court and not by the commencement of a preliminary investigation by the investigating body nor the institution of the complaint with the investigating body.** Other than Metropolitan Manila and Chartered Cities, the criminal action is commenced by filing a complaint or information before the court. In the same vein, the running of the prescriptive period is interrupted by either the complaint or information filed in court.

Hence, for special laws within the scope of the Revised Rules on Summary Procedure, the principle laid down in *Zaldivia* and *Jadewell* is controlling, *i.e.*, violations of municipal or city ordinance, and BP 22. Accordingly, the ruling in *Panaguiton* with respect to interruption of prescription of BP 22 shall govern only those acts committed when BP 22 is not yet covered by the Revised Rules on Summary Procedure, *i.e.*, before the effectivity of A.M. No. 00-11-01-SC on April 15, 2003. Thus, for acts committed on April 15, 2003 onwards, the filing of complaint or information in court shall interrupt the running of the prescriptive period and not the institution of the preliminary investigation by investigating agencies or the filing of a complaint before such investigating agencies. **However, in Metropolitan Manila and Chartered Cities, only the filing of Information in court shall toll the running of the prescriptive period.**<sup>40</sup> (Citations omitted and emphasis supplied)

As a crime punishable by *arresto menor*, slight physical injuries is clearly governed by the Rules on Summary Procedure which provides:

SECTION 1. *Scope.* — This rule shall govern the summary procedure in the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, and the Municipal Circuit Trial Courts in the following cases falling within their jurisdiction:

....

B. Criminal Cases:

....

**(4) All other criminal cases where the penalty prescribed by law for the offense charged is imprisonment not exceeding six months, or a fine not exceeding (P1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom: *Provided, however,* that in offenses involving damage to property through criminal negligence, this Rule shall govern where the imposable fine does not exceed ten thousand pesos (P10,000.00).** (Emphasis supplied)

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

Consequently, the ruling laid down in *Desierto*<sup>41</sup> is relevant and appropriate in the case at bar, in that the filing of the Complaint against Pastor did not toll the running of the prescriptive period. From the reckoning point of November 25, 2017 until May 21, 2018 when the prosecutor's office filed the Information against Pastor, 177 days have already lapsed. Clearly, the crime for which the petitioner was found guilty had already prescribed on the basis of the absence of Information filed before the trial court.

To be clear, we are fully aware of the unfortunate outcome of this ruling to the private complainant who rightfully seeks legal redress. Indeed, it is not the failure of the complainant, but that of the prosecutor's office to timely file the Information before the court, which necessarily results in the dismissal of the case against Pastor. This Court's ruling in *Zaldivia v. Judge Reyes, Jr.*<sup>42</sup> is instructive in this regard:

At any rate, the Court feels that if there be a conflict between the Rule on Summary Procedure and Section 1 of Rule 110 of the Rules on Criminal Procedure, the former should prevail as the special law. And if there be a conflict between Act No. 3326 and Rule 110 of the Rules on Criminal Procedure, the latter must again yield because this Court, in the exercise of its rule-making power, is not allowed to "diminish, increase or modify substantive rights" under Article VIII, Section 5 (5) of the Constitution Prescription in criminal cases is a substantive right.

Going back to the Francisco case, we find it not irrelevant to observe that the decision would have been conformable to Section 1, Rule 110, as the offense involved was grave oral defamation punishable under the Revised Penal Code with *arresto mayor* in its maximum period to *prison correccional* in its minimum period. By contrast, the prosecution in the instant case is for violation of a municipal ordinance, for which the penalty cannot exceed six months, and is thus covered by the Rule on Summary Procedure.

**The Court realizes that under the above interpretation, a crime may prescribe even if the complaint is filed seasonably with the prosecutor's office if, intentionally or not, he delays the institution of the necessary judicial proceedings until it is too late. However, that possibility should not justify a misreading of the applicable rules beyond their obvious intent as reasonably deduced from their plain language. The remedy is not a distortion of the meaning of the rules but a rewording thereof to prevent the problem here sought to be corrected.**<sup>43</sup> (Citation omitted and emphasis supplied)

All told, the MeTC committed reversible error in convicting Pastor of slight physical injuries. It is plain that the case should have been dismissed as the light offense for which he was found guilty had already been extinguished by prescription when the Information was filed. Consequently, the RTC and

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

<sup>42</sup> 286 Phil. 375 (1992) [Per J. Cruz, *En Banc*].

<sup>43</sup> *Id.* at 382-383.

the CA likewise committed reversible errors in affirming the conviction of Pastor.

As a final note, despite the filing of the Complaint-Affidavit by Roberto on January 8, 2018 before the prosecutor’s office, it took the latter more than four months, or only on May 21, 2018, to file the Information before the MeTC. While this Court now acquits Pastor on the basis thereof, there is truth in the precept we have laid down in *Panaguition*<sup>44</sup> that aggrieved parties, especially those who do not sleep on their rights and actively pursue their causes, should not be allowed to suffer unnecessarily further simply because of circumstances beyond their control, like the delay and inefficiency of the investigating agencies.<sup>45</sup>

In this connection, the court exhorts prosecutors to diligently discharge their functions by keeping in mind the prescriptive period of the crimes contained in the complaints lodged before them, and on the basis thereof, timely file the necessary Information before the proper court.

**ACCORDINGLY**, the Petition is hereby **GRANTED**. The Decision and the Resolution of the Court of Appeals in CA-G.R. CR No. 43154 are **REVERSED**. Pastor Corpus, Jr. y Belmoro is **ACQUITTED** of the crime of Slight Physical Injuries on the ground of prescription.

Let entry of final judgment be issued immediately.

**SO ORDERED.**

  
**JHOSEP Y. LOPEZ**  
Associate Justice

**WE CONCUR:**

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

<sup>44</sup> *Supra* note 38.

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

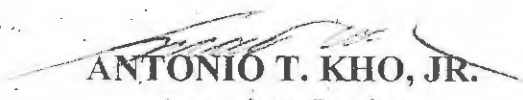




**AMY J. LAZARO-JAVIER**  
Associate Justice




**MARIO V. LOPEZ**  
Associate Justice



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

**ATTESTATION**

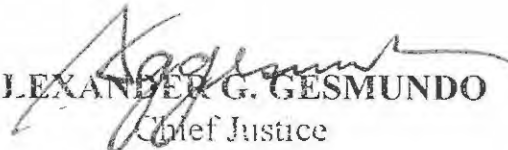
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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