



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE  
PHILIPPINES,

Plaintiff-Appellee,

- versus -

GLEN PIAD *y* BORI, RENATO  
VILLAROSA *y* PLATINO and  
NILO DAVIS *y* ARTIGA,  
Accused-Appellants.

G.R. No. 213607

Present:

CARPIO, *J.*, Chairperson,  
BRION,  
DEL CASTILLO,  
MENDOZA, and  
LEONEN, *JJ.*

Promulgated:

25 JAN 2016

X ----- X

DECISION

**MENDOZA, *J.*:**

Subject of this appeal is the January 22, 2014 Decision<sup>1</sup> of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 04780, which affirmed the September 24, 2009 Joint Decision<sup>2</sup> of the Regional Trial Court, Branch 164, Pasig City (*RTC*), finding accused-appellant Glen Piad (*Piad*) guilty of violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, as amended, in Criminal Case Nos. 14086-D and 14087-D; and accused-appellants Renato Villarosa (*Villarosa*), Agustin Carbo (*Carbo*) and Nilo Davis (*Davis*) all guilty of violation of Sections 13 and 14, Article II of R.A. No. 9165 in Criminal Case Nos. 14088-D and 14089-D.

Accused-appellant Piad was charged in two (2) informations with the crimes of illegal sale of dangerous drugs weighing 0.05 gram and illegal possession of dangerous drugs weighing 0.06 gram. While accused-appellant Villarosa, Carbo and Davis were charged in two (2) informations with the

<sup>1</sup> Penned by Associate Justice Francisco P. Acosta with Associate Justice Fernanda Lampas Peralta and Associate Justice Myra V. Garcia-Fernandez, concurring; *rollo*, pp. 2-17.

<sup>2</sup> *CA rollo*, pp. 119-131.

crimes of illegal possession of dangerous drugs during a party weighing 0.03 gram and illegal possession of drug paraphernalia during a party.

On August 8, 2005, Piad, Villarosa and Carbo were arraigned and they pleaded “Not Guilty.” Davis, however, was not arraigned because he had jumped bail.<sup>3</sup>

Pre-trial and trial on the merits ensued. On May 15, 2008, after Davis was arrested, he was arraigned and, with the assistance of a counsel, pleaded “Not Guilty” to the charges against him.

### *Evidence of the Prosecution*

The prosecution presented PO1 Larry Arevalo (*PO1 Arevalo*), PO1 Joseph Bayot (*PO1 Bayot*), Forensic Chemist PSI Stella Ebuena (*PSI Ebuena*), PO2 Clarence Nipales (*PO2 Nipales*), and P/Insp. Donald Sabio (*P/Insp. Sabio*), as its witnesses. Their combined testimonies tended to prove the following:

On April 23, 2005, the Special Operations Task Force, Pasig City Police Station, Pasig City, received information from a confidential informant that a certain “Gamay,” who was later identified as Piad, was selling drugs along Ortigas Bridge, Pasig City. P/Insp. Sabio led the team, composed of PO1 Arevalo, PO1 San Agustin, PO1 Bayot, PO1 Danilo Pacurib, PO2 Nipales, and PO1 Bibit, to conduct a buy-bust operation. PO1 Arevalo was assigned as poseur-buyer and was provided with the marked money - ₱150.00 in ₱100.00 and ₱50.00 peso bills. The Philippine Drug Enforcement Agency (*PDEA*) issued a certificate of coordination authorizing the team to proceed with the operation.

Around 6:45 o’clock in the afternoon, the team arrived at the house of Piad in Lifehomes Subdivision, Rosario, Pasig City. The back-up team took up position about 5 meters away from Piad’s house. The confidential informant, with PO1 Arevalo, knocked on the door. When Piad opened the door, the confidential informant introduced PO1 Arevalo as a buyer of *shabu*. Piad asked PO1 Arevalo how much he wanted and the latter answered ₱150.00. Thereafter, Piad closed the door and returned after a few seconds.

Upon opening the door again, PO1 Arevalo noticed that a group of male individuals were inside the house. PO1 Arevalo handed to Piad the ₱150.00 marked money. In turn, Piad handed to PO1 Arevalo a small plastic

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<sup>3</sup> Records, p. 26.

sachet containing white crystalline substance. After the transaction was completed, PO1 Arevalo immediately grabbed Piad's right arm and introduced himself as a police officer. Piad, however, struggled to free himself. PO1 Arevalo was eventually forced to enter the house amidst the struggle. The back-up team followed suit and entered the house.

After arresting him, PO1 Arevalo asked Piad to bring out the marked money. Piad complied. PO1 Arevalo also asked him about the source of the drugs he sold. Piad pulled out a metal box from his pocket and it revealed two (2) other plastic sachets containing white crystalline substance. PO1 Arevalo marked all the items confiscated from Piad at the place of the arrest. Meanwhile, the back-up team saw Villarosa, Davis and Carbo inside the house, sitting on the floor. They were surrounded by three (3) sachets of white crystalline substance (one was heat sealed, while the other two were unsealed), aluminum foil, a tooter and disposable lighters. The items were confiscated and were marked by PO1 Bayot thereat.

The team brought Piad, Villarosa, Carbo, and Davis to the police headquarters. There, PO2 Pacurib, PO1 Bayot and PO1 Arevalo executed a joint affidavit on their arrest. P/Insp. Sabio prepared the requests for laboratory examination and drug test, which were brought by SPO1 Bayot to the Eastern Police District Crime Laboratory. PSI Ebuena examined the confiscated items which tested positive for methamphetamine hydrochloride.

#### *Evidence of the Defense*

The defense presented Piad, her sister Maria Zennette Piad (*Maria*), Villarosa, Carbo, and Davis as its witnesses. They all testified to establish the following:

On April 23, 2005, Piad, Villarosa, Carbo, and Davis were celebrating a birthday party in the house of Piad. Between 1:00 o'clock and 2:00 o'clock in the afternoon, a tricycle and a vehicle stopped in front of the house at Pilar Apartment, Ortigas Avenue, Pasig City. Two (2) armed men in civilian clothes alighted from the vehicle, while another armed man alighted from the tricycle. All of them suddenly entered the house of Piad, where the accused-appellants were having a drinking spree. Piad, Villarosa, Carbo, and Davis were then ordered to lie down on the floor facing downwards. Thereafter, the armed men searched the house. Subsequently, the accused-appellants were handcuffed and brought to the police station. Piad claimed that the police officers were asking ₱20,000.00 in exchange for their freedom; while Carbo claimed that the officers were demanding ₱10,000.00 for their release.

*The RTC Ruling*

In its Joint Decision, dated September 24, 2009, the RTC found Piad guilty beyond reasonable doubt of the crimes of illegal sale and illegal possession of dangerous drugs, while Villarosa, Carbo and Davis were found guilty beyond reasonable doubt of the crimes of illegal possession of dangerous drugs during parties and illegal possession of drug paraphernalia during parties.

The RTC held that all the elements of the crime of illegal sale of drugs were established because PO1 Arevalo handed the marked money to Piad, who, in turn, handed the plastic sachet, which was confirmed to contain 0.05 gram of *shabu*. The elements of the crime of illegal possession of drugs were also established because two (2) more sachets of *shabu* weighing 0.06 gram were found in the metal container inside the pocket of Piad immediately after his arrest.

As to Villarosa, Carbo and Davis, the RTC found that they committed the crime of illegal possession of drugs and paraphernalia during a party because they were surrounded by plastic sachets containing 0.03 gram of *shabu* and different drug paraphernalia when the team found them. The elements of such crimes were clearly proven because they were in a proximate company of at least two persons and without any legal authority to possess such illicit items.

The RTC did not give credence to the defense of denial and frame up put up by the accused because their testimonies were inconsistent and self-serving. The dispositive portion of the decision reads:

**WHEREFORE:**

1. In Criminal Case No. 14086-D, the Court finds the accused Glen Piad alias Gamay guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165, and hereby imposes upon him the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (Php500,000.00) with the accessory penalties provided for under Section 35 of said R.A. 9165.
2. In Criminal Case No. 14087-D, the Court finds the accused Glen Piad alias Gamay guilty beyond reasonable doubt of violation of Section 11, Article II of R.A. 9165, and hereby imposes upon him an indeterminate penalty of imprisonment from twelve (12) years and one (1) day, as minimum, to sixteen (16) years, as maximum, and a fine of Three Hundred Thousand Pesos (Php300,000.00) with all the accessory penalties under the law.

3. In Criminal Case No. 14088-D, their guilt having been established beyond reasonable doubt, accused Renato Villarosa y Platino, Agustin Carbo y Pavillon and Nilo Davis y Artiga are hereby CONVICTED of violation of Section 13, Article II of R.A. 9165 for possessing methylamphetamine hydrochloride weighing less than five grams in the proximate company of at least two persons without legal authority and sentenced to suffer an indeterminate penalty of imprisonment from Twelve (12) years and one (1) day, as minimum, to Twenty (20) years as maximum, and fine of Four Hundred Thousand Pesos (Php400,000.00) each.
4. In Criminal Case No. 14089-D their guilt having been established beyond reasonable doubt, accused Renato Villarosa y Platino, Agustin Carbo y Pavillon and Nilo Davis y Artiga are hereby CONVICTED of violation of Section 14, Article II of R.A. 9165 for possessing paraphernalia for dangerous drug in the proximate company of at least two persons without legal authority and hereby sentenced to suffer an indeterminate penalty of imprisonment from six (6) months and one (1) day, as minimum, to four (4) years, as maximum, and fine of Fifty Thousand Pesos (Php50,000.00) each.

HOWEVER, the four (4) plastic sachets containing white crystalline substance or shabu (Exhs. H, H-1, H-2, and J) and the illegal drug paraphernalia (Exhs. I, K, L, M, N, O, P) are hereby ordered turned over to the Philippine Drug Enforcement Agency for destruction and proper disposition.

SO ORDERED.<sup>4</sup>

Aggrieved, Piad, Villarosa, Carbo, and Davis filed their notices of appeal.<sup>5</sup> Subsequently, Carbo withdrew his appeal,<sup>6</sup> which was granted by the CA in its Resolution,<sup>7</sup> dated October 21, 2011.

In their Appellants' Brief,<sup>8</sup> Piad, Villarosa and Davis argued that the chain of custody rule was not complied with because PSI Ebuena did not testify on the condition of the confiscated items; that it was not shown how the said items were brought before the court; and that no photograph was taken or an inventory of the seized items was conducted.

In its Appellee's Brief,<sup>9</sup> the Office of the Solicitor General (*OSG*) countered that Section 21 of the Implementing Rules and Regulations (*IRR*) of R.A. No. 9165 required only substantial compliance as long as the

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<sup>4</sup> CA *rollo*, pp. 43-44.

<sup>5</sup> Id. at 71 and 73.

<sup>6</sup> Id. at 86-87.

<sup>7</sup> Id. at 91-92.

<sup>8</sup> Id. at 100-117.

<sup>9</sup> Id. at 146-179.

integrity and evidentiary value of the items were preserved; and that the testimony of the police officers showed that the items were properly handled.

*The CA Ruling*

In its assailed decision, dated January 22, 2014, the CA affirmed the conviction of Piad, Villarosa and Davis. The CA held that all the elements of the crimes charged were indeed proven. As to the chain of custody, the appellate court enumerated in detail how the prosecution was able to establish its compliance with Section 21 of R.A. No. 9165. As the chain of custody of the seized items was sufficiently established not to have been broken, then the admissibility and credibility of the said items were appreciated. The CA disposed the appeal in this wise:

WHEREFORE, the Appeal is DENIED. The RTC Decision in Criminal Cases Nos. 14086-D, 14087-D, 14088-D and 14089-D, finding accused-appellants guilty of the crimes charged is hereby AFFIRMED.

SO ORDERED.<sup>10</sup>

Hence, this appeal.

In its Resolution,<sup>11</sup> dated November 19, 2014, the Court required the parties to submit their respective supplemental briefs, if they so desired.

In its Manifestation and Motion,<sup>12</sup> dated January 8, 2015, the OSG manifested that it would no longer submit a supplemental brief because its Brief for the Appellee, dated February 10, 2012, before the CA had extensively and exhaustively discussed all the issues and arguments raised by the accused-appellants.

In their Manifestation (in lieu of Supplemental Brief),<sup>13</sup> dated February 4, 2015, the accused-appellants manifested that they would no longer file a supplemental brief considering that no new issues material to the case were raised.

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<sup>10</sup> *Rollo*, p. 16.

<sup>11</sup> *Id.* at 25.

<sup>12</sup> *Id.* at 34-36.

<sup>13</sup> *Id.* at 41-43.

In his Manifestation with Motion to Withdraw Appeal,<sup>14</sup> Villarosa signified his intention to withdraw his appeal, adding that he understood the consequences of his action. In its Resolution,<sup>15</sup> dated April 8, 2015, the Court granted Villarosa's motion to withdraw his appeal.

Meanwhile, in a letter, dated January 13, 2015, the Bureau of Corrections informed the Court that there was no record of confinement of Davis in all the prison facilities of the said Bureau. In the same resolution, dated April 8, 2015, the Court required the Clerk of Court of the RTC to confirm the confinement of Davis within ten (10) days from notice.

In her Manifestation/Compliance,<sup>16</sup> dated May 29, 2015, the RTC Branch Clerk of Court, Atty. Rachel G. Matalang (*Atty. Matalang*), reported that Davis was never committed in any detention or prison facility as he posted bail under a surety bond from Summit Guaranty and Insurance Company, Inc. on May 6, 2005 during the pendency of the trial; that on November 12, 2009, during the promulgation of the judgment, Davis and his counsel appeared before the trial court and manifested that he would file a notice of appeal; that no warrant of arrest or commitment order was issued against him; and that she could not confirm the confinement of Davis.

In its Resolution,<sup>17</sup> dated July 8, 2015, the Court required Davis, the OSG and Summit Guaranty and Insurance Company, Inc., to comment on the manifestation of Atty. Matalang.

In its Comment,<sup>18</sup> dated October 16, 2015, the OSG asserted that when Davis jumped bail on August 8, 2005, the RTC should have immediately cancelled his bailbond; that he should have been placed under custody after the promulgation of the judgment; and that he had become a fugitive from justice who had lost his standing to appeal.

In its Manifestation,<sup>19</sup> dated December 8, 2015, the Public Attorney's Office informed the Court that, despite earnest efforts to locate Davis and the surety company, they were not able to determine their whereabouts; and that his wife informed the office that Davis had received the July 8, 2015 Resolution of the Court.

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<sup>14</sup> Id. at 46-49.

<sup>15</sup> Id. at 53-54.

<sup>16</sup> Id. at 55-56.

<sup>17</sup> Id. at 57.

<sup>18</sup> Id. at 74-84.

<sup>19</sup> Id. at 114-117.

### **The Court's Ruling**

The appeal lacks merit and Davis has lost his right to appeal.

*Elements of the crimes charged were duly established by the prosecution*

After a review of the records of the case, the Court holds that Piad was properly convicted of the crime of illegal sale of dangerous drugs. It was proven that, on April 23, 2005, the police went to his house to conduct a buy-bust operation; that PO1 Arevalo acted as the poseur-buyer; and that when PO1 Arevalo gave the marked money to Piad, the latter handed to him a small plastic sachet. A laboratory examination confirmed that the plastic sachet contained 0.05 gram of *shabu*. Clearly, all the elements of the said crime were established.

The prosecution was also able to prove that Piad committed the crime of illegal possession of dangerous drugs. When he was arrested *in flagrante delicto*, he was asked about the source of his drugs. He then brought out a metal box, which contained two (2) more sachets. It was confirmed in a laboratory test that these sachets contained 0.06 gram of *shabu*.

With respect to the crime of illegal possession of dangerous drugs during a party and the crime of illegal possession of drug paraphernalia during a party, the prosecution also established that after the arrest of Piad, the team found Villarosa, Carbo and Davis sitting on the floor and surrounded by one (1) heat-sealed sachet and two (2) unsealed sachets. A laboratory report showed that these sachets contained a total of 0.03 gram of *shabu*. The said persons were also found with an aluminum foil, a tooter and disposable lighters, which were considered drug paraphernalia. As correctly held by the RTC, the elements of such crimes were proven because there was a proximate company of at least two (2) persons without any legal authority to possess the illicit items, citing Section 14 of R.A. No. 9165.<sup>20</sup>

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<sup>20</sup> Sec. 14. Possession of Equipment, Instrument, Apparatus and other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings. – The maximum penalty provided for in Section 12 of this Act shall be imposed upon any person, who shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit of intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body, during parties, social gatherings or meetings, or in the proximate company of at least two (2) persons.



*Substantial compliance with  
the Chain of Custody Rule*

The chain of custody requirement is essential to ensure that doubts regarding the identity of the evidence are removed through the monitoring and tracking of the movements of the seized drugs from the accused, to the police, to the forensic chemist, and finally to the court.<sup>21</sup> Section 21(a) of the Implementing Rules and Regulations of R.A. No. 9165 provides:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof; Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; **Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.** (Emphasis supplied)

Evidently, the law requires "substantial" and not necessarily "perfect adherence" as long as it can be proven that the integrity and the evidentiary value of the seized items were preserved as the same would be utilized in the determination of the guilt or innocence of the accused.<sup>22</sup>

In this case, the CA meticulously assessed how the prosecution complied with the chain of custody rule. When Piad was arrested, PO1 Arevalo marked the confiscated drugs at the crime scene. Likewise, when Villarosa, Carbo and Davis were arrested, PO1 Bayot immediately marked the seized items at the crime scene. The items were brought to the Pasig City Police Station where PO1 Bayot was designated as evidence custodian. P/Insp. Sabio then prepared the requests for laboratory examination and drug test, which were brought by PO1 Bayot, together with the drugs, to the Eastern Police District Crime Laboratory. PSI Ebuena, received the confiscated items for examination. The said items tested positive for methylamphetamine hydrochloride. Based on the foregoing, the Court is satisfied that there was substantial compliance with the chain of custody rule.

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<sup>21</sup> *People v. Miranda y Feliciano*, G.R. No. 209338, June 29, 2015.

<sup>22</sup> *People v. Dahil*, G.R. No. 212196, January 12, 2015.

*Davis lost his standing to appeal*

Before conviction, bail is either a matter of right or of discretion. It is a matter of right when the offense charged is punishable by any penalty lower than death, *reclusion perpetua* or life imprisonment. If the offense charged is punishable by death, *reclusion perpetua* or life imprisonment, bail becomes a matter of discretion.<sup>23</sup> In case bail is granted, the accused must appear whenever the court requires his presence; otherwise, his bail shall be forfeited.<sup>24</sup>

When a person is finally convicted by the trial court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment, admission to bail is discretionary. Section 5, Rule 114 of the Rules of Court provides:

Sec. 5. *Bail, When Discretionary.* – Upon conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment, admission to bail is discretionary. The application for bail may be filed and acted upon by the trial court despite the filing of a notice of appeal, provided it has not transmitted the original record to the appellate court.

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Should the court grant the application, the accused may be allowed to continue on provisional liberty during the pendency of the appeal under the same bail subject to the consent of the bondsman. xxx

Here, Davis was charged with the crimes of illegal possession of dangerous drugs during a party and illegal possession of drug paraphernalia during a party. Both offenses did not have a prescribed penalty of death, *reclusion perpetua* or life imprisonment, thus, bail was a matter of right. Accordingly, Davis secured a surety bond with Summit Guaranty & Insurance Company, Inc. on May 6, 2005.

On August 8, 2005, Davis failed to appear before the RTC which considered him to have jumped bail. At that point, the RTC should have cancelled the bailbond of Davis with Summit Guaranty & Insurance Company, Inc. Although he was subsequently arrested and arraigned on May 15, 2008, it is alarming that no record of Davis' confinement in any detention facility was ever found.<sup>25</sup>

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<sup>23</sup> *Tanog v. Balindong*, G.R. No. 187464, November 25, 2015.

<sup>24</sup> See Section 21, Rule 114.

<sup>25</sup> *Rollo*, p. 55.


When the RTC promulgated its decision for conviction, Davis and his counsel were present in the courtroom. Yet, they did not file any motion for bail pending appeal before the RTC or the CA. Nonetheless, any motion for bail pending appeal should have been denied because Davis violated the conditions of his previous bail.<sup>26</sup> Necessarily, as he previously jumped bail and no bail pending appeal was secured, the RTC should have immediately issued a warrant of arrest against him.

In the same manner, the CA should not have entertained the appeal of Davis. Once an accused escapes from prison or confinement, jumps bail (as in this case), or flees to a foreign country, he loses his standing in court. Unless he surrenders or submits to the jurisdiction of the court, he is deemed to have waived any right to seek relief from the court.<sup>27</sup> As no such surrender was made in this case, in the eyes of the law, Davis is a fugitive from justice and, therefore, not entitled to seek relief from the courts.

**WHEREFORE**, the Joint Decision, dated September 24, 2009, of the Regional Trial Court, Branch 164, Pasig City in Criminal Case Nos. 14086-D, 14087-D, 14088-D and 14089-D is **AFFIRMED *in toto***.

For failure to submit to this Court's jurisdiction, the appeal filed by Nilo Davis y Artiga is deemed **ABANDONED** and **DISMISSED**. The Regional Trial Court, Branch 164, Pasig City, is hereby **ORDERED** to issue a warrant of arrest for the immediate apprehension and service of sentence of Nilo Davis y Artiga.

**SO ORDERED.**

  
**JOSE CATRAL MENDOZA**  
Associate Justice

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<sup>26</sup> Sec. 5. xxx

If the penalty imposed by the trial court is imprisonment exceeding six (6) years, the accused shall be denied bail, or his bail shall be cancelled upon a showing by the prosecution, with notice to the accuse, of the following or other similar circumstances:

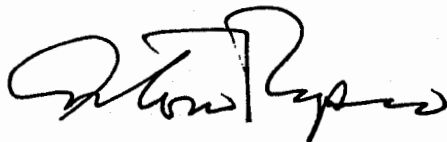
xxx

(b) That he has previously escaped from legal confinement, evaded sentence, or violated the conditions of his bail without valid justification;

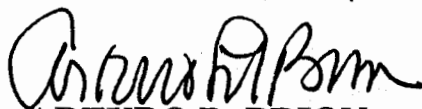
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<sup>27</sup> *Villena v. People*, G.R. No. 184091, January 31, 2011, 641 SCRA 127, 136.

**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ARTURO D. BRION**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



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

**A T T E S T A T I O N**

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.



**ANTONIO T. CARPIO**  
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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice