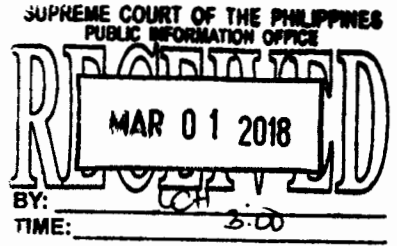




Republic of the Philippines  
**Supreme Court**  
 Manila



**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 219955**

Present:

- versus -

SERENO, *C.J.*, Chairperson,  
 LEONARDO-DE CASTRO,  
 PERALTA,\*  
 DEL CASTILLO, *and*  
 CAGUIOA,\*\* *JJ.*

**GLENN DE GUZMAN y**  
**DELOS REYES,**  
*Accused-Appellant.*

Promulgated:  
**FEB 05 2018**

X-----X

**DECISION**

**DEL CASTILLO, J.:**

Assailed in this appeal is the January 29, 2015 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05930 which affirmed the October 10, 2012 Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 75, Olongapo City, finding Glenn De Guzman y Delos Reyes (appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act (RA) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

***The Antecedent Facts***

Appellant was charged with the illegal sale and possession of dangerous drugs, as well as the use of dangerous drugs under Sections 5, 11 and 15, Article II of RA 9165 in three Informations<sup>3</sup> dated November 16, 2009 which read:

\* Designated as additional member per October 18, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.  
 \*\* Designated as additional member per December 20, 2017 raffle vice J. Tijam who recused due to prior participation in the case before the Court of Appeals.  
<sup>1</sup> *Rollo*, pp. 2-8; penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Noel G. Tijam, now a member of this Court, and Myra V. Garcia-Fernandez.  
<sup>2</sup> *CA rollo*, pp. 64-76; penned by Judge Raymond C. Viray.  
<sup>3</sup> Records, pp. 1, 17 and 37.

Criminal Case No. 627-2009

That on or about the twelfth [sic] (12<sup>th</sup>) day of November, 2009, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and knowingly deliver to PO1 Lawrence Reyes Php100.00 (SN-S528347) worth of marijuana fruiting tops, which is a dangerous drug,<sup>4</sup> in one (1) plastic sachet weighing Two Grams and Fifty Thousandths of a gram (2.050 gm.)

Criminal Case No. 628-2009

That on or about the twelfth (12<sup>th</sup>) day of November, 2009, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and knowingly have in his effective possession and control, four (4) heat-sealed transparent plastic sachets containing marijuana fruiting tops weighing 8.645 gms. and one (1) pc. of ziplock containing small bricks of marijuana fruiting tops weighing 32.825 grams said accused not having the corresponding license or prescription to possess said dangerous drugs.

Criminal Case No. 629-2009

That on or about the twelfth (12<sup>th</sup>) day of November, 2009, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being lawfully authorized, did then and there willfully, unlawfully and knowingly, was found to be positive for use of THC metabolites, a dangerous drug after a confirmatory test.

During his arraignment on December 10, 2009, appellant entered a plea of not guilty.<sup>4</sup> Trial thereafter ensued.

***Version of the Prosecution***

On November 12, 2009, at around 11:45 p.m., the Anti-Illegal Drugs Special Unit of Olongapo City, in coordination with the Philippine Drug Enforcement Agency (PDEA), conducted an entrapment operation against appellant along Balic-balic Street, Sta. Rita, Olongapo City. Prior surveillance had confirmed numerous reports that appellant was indiscriminately selling marijuana within the neighborhood.<sup>5</sup>

During the pre-operation briefing, P/Insp. Julius Javier designated PO1 Lawrence Reyes (PO1 Reyes) as poseur-buyer, SPO1 Allan Delos Reyes (SPO1 Delos Reyes) as case investigator and back-up, PO2 David Domingo as spotter, and three other policemen as perimeter security.<sup>6</sup>



<sup>4</sup> Id. at 52-54.

<sup>5</sup> *Rollo*, p. 2.

<sup>6</sup> Id.

At the target area, appellant approached PO1 Reyes and asked if he wanted to buy marijuana. PO1 Reyes accepted the offer and handed the ₱100.00 marked money to appellant who, in turn, gave him a sachet of marijuana fruiting tops. Once the exchange was completed, PO1 Reyes grabbed appellant's right hand which served as the pre-arranged signal that the transaction had been consummated.<sup>7</sup>

SPO1 Delos Reyes rushed to the scene and assisted PO1 Reyes in conducting a body search on appellant. They introduced themselves as police officers, informed appellant of his constitutional rights and placed him under arrest. After the body search, SPO1 Delos Reyes recovered the ₱100.00 marked money, four sachets of marijuana and one plastic pack containing a small brick of marijuana fruiting tops.<sup>8</sup>

The entrapment team immediately brought appellant to the police station after his relatives created a commotion and tried to interfere in appellant's arrest.<sup>9</sup>

At the police station, PO1 Reyes marked the sachet that was the subject of the buy-bust operation with his initials "LR" and turned it over to SPO1 Delos Reyes who also put his initials "ADR" thereon. SPO1 Delos Reyes separately marked the other four sachets and the plastic pack that he had confiscated from appellant during the body search with his initials "ADR."<sup>10</sup>

SPO1 Delos Reyes then prepared the Inventory Receipt, the Letter Request for Laboratory Examination, and the Request for Drug Test.<sup>11</sup> Photographs of the confiscated items were also taken. Notably, *only two barangay* officials were present during the conduct of a physical inventory of the seized items – there were no representatives from both the Department of Justice (DOJ) and the media.<sup>12</sup>

Later, SPO1 Delos Reyes personally turned over the seized items to the Regional Crime Laboratory in Olongapo City.<sup>13</sup> On November 13, 2009, Forensic Chemist Arlyn Dascil (Forensic Chemist Dascil) conducted a qualitative examination on the subject specimens to determine the presence of dangerous drugs. Based on Chemistry Report No. D-074-2009-OCCLO,<sup>14</sup> the seized items tested positive for the presence of marijuana, a dangerous drug.

---

<sup>7</sup> Id. at 3.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> CA *rollo*, p. 100.

<sup>12</sup> *Rollo*, p. 3.

<sup>13</sup> Id.

<sup>14</sup> Records, p. 4.

### ***Version of the Defense***

Appellant raised the defenses of denial and frame-up and insisted that the evidence against him was planted. He narrated that, while on his way home from a party, some armed men alighted from a van and asked for the whereabouts of a certain "Bunso." After failing to provide an answer, he was frisked and brought to the police station where he was incarcerated and forced to point to the drugs on the table as pictures were taken.<sup>15</sup>

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

In its Decision dated October 10, 2012, the RTC found appellant guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165. It held that:

x x x In this case, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummated the buy-bust transaction. This was further corroborated by the presentation of the marked money in evidence. Moreover, the failure of the accused to successfully impute false motive to the policemen who arrested him strengthens the presumption that they were in the regular discharge of duties when they entrapped the accused and later charged him with drug pushing x x x.<sup>16</sup>

The RTC also held that "the integrity and the evidentiary value of the drug involved were safeguarded,"<sup>17</sup> as the seized items were "immediately marked for proper identification by the seizing officers and turned over to SPO1 Delos Reyes who, in turn, prepared the receipt of evidence in the presence of the accused, members of the police and *barangay* representatives."<sup>18</sup>

Nevertheless, the RTC acquitted appellant of the charge of use of dangerous drugs under Section 15, Article II of RA 9165, considering that Section 15 is *inapplicable* where "the person tested is also found to have in his/her possession such quantity of any dangerous drug,"<sup>19</sup> as in this case.

Accordingly, the RTC sentenced appellant to suffer the penalties of: a) life imprisonment and a fine of ₱500,000.00 for violation of Section 5, Article II of RA 9165 in Criminal Case No. 627-09; and b) imprisonment from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and a fine of

<sup>15</sup> *Rollo*, pp. 3-4.

<sup>16</sup> *CA rollo*, pp. 70-71.

<sup>17</sup> *Id.* at 74.

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

<sup>19</sup> *Id.* at 69.



₱300,000.00 for violation of Section 11, Article II of RA 9165 in Criminal Case No. 628-09.<sup>20</sup>

Appellant thereafter appealed the RTC Decision before the CA.

### ***Ruling of the Court of Appeals***

In its Decision dated January 29, 2015, the CA affirmed the assailed RTC Decision *in toto*. It upheld the RTC's findings that the prosecution was able to sufficiently establish all the elements of both the illegal sale and possession of dangerous drugs.<sup>21</sup>

The CA noted that appellant was positively identified by PO1 Reyes, the poseur-buyer, as the person who sold to him a sachet of marijuana that was presented in court for ₱100.00 during the entrapment operation.<sup>22</sup> It emphasized that “[i]n cases of illegal sale of dangerous drugs, the delivery of the contraband to the poseur-buyer and the receipt by the accused of the marked money consummate the transaction.”<sup>23</sup>

In addition, the CA ruled that all the elements of illegal possession of marijuana were present in the case, considering that: *first*, four sachets of marijuana and one plastic pack containing a small brick of marijuana fruiting tops were found in appellant's possession after a lawful search on his person; and *second*, appellant failed to adduce evidence showing his legal authority to possess the contrabands recovered from him.<sup>24</sup>

Finally, the CA held that “the prosecution [had] adequately shown the unbroken possession and subsequent transfers of the confiscated items through the following links in the chain of custody:”<sup>25</sup>

- (1) PO1 Reyes marked the plastic sachet that was subject of the buy-bust with “LR” and turned it over to case investigator SPO1 Delos Reyes who marked it with his own initials “ADR.” On the other hand, the four other sachets and plastic pack searched from the person of the accused were separately marked by SPO1 Delos Reyes with his initials “ADR”;
- (2) A request for laboratory examination of the seized items was then prepared by SPO1 Delos Reyes;



<sup>20</sup> Id. at 75-76.

<sup>21</sup> *Rollo*, pp. 5-6.

<sup>22</sup> Id. at 5.

<sup>23</sup> Id.

<sup>24</sup> Id. at 6.

<sup>25</sup> Id.

- (3) The request and the marked items were personally delivered by SPO1 Delos Reyes to the Regional Crime Laboratory;
- (4) Chemistry Report No. D-074-2009-OCCLLO confirmed that the specimens contained marijuana; and,
- (5) The marked items were offered in evidence as Exhibits “I”, “I-I” and “I-2”.<sup>26</sup>

Aggrieved, appellant filed the present appeal.

### The Issue

Appellant raises the sole issue of whether the chain of custody over the seized items had remained unbroken despite the arresting officers’ failure to strictly comply with the requirements under Section 21, Article II of RA 9165, *i.e.*, the failure to mark the seized items at the crime scene, and the absence of the representatives from both the DOJ and the media during the conduct of the physical inventory and taking of photographs of said items.

### The Court’s Ruling

“For prosecutions involving dangerous drugs, the dangerous drug itself constitutes as the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.”<sup>27</sup> Like the other elements of the offense/s charged, the identity of the dangerous drug must be established with moral certainty. Such proof requires “an unwavering exactitude that the dangerous drug presented in court as evidence against the accused is the same as that seized from him.”<sup>28</sup>

Thus, in prosecutions for the illegal sale of dangerous drugs, what is material “is the proof that the transaction or sale or [sic] had actually taken place, coupled with the presentation in court of evidence of [the] *corpus delicti*.”<sup>29</sup> Similarly, in illegal possession of dangerous drugs, aside from the elements of the offense, “the evidence of the *corpus delicti* must be established beyond [reasonable] doubt.”<sup>30</sup>

Note, however, that the presentation of evidence establishing the elements of the offenses of illegal sale and possession of dangerous drugs *alone* is

<sup>26</sup> *Id.* at 6-7.

<sup>27</sup> *Derilo v. People*, 784 Phil. 679, 686 (2016).

<sup>28</sup> *Id.*

<sup>29</sup> *People v. Partoza*, 605 Phil. 883, 890 (2009).

<sup>30</sup> *Id.*



insufficient to secure or sustain a conviction under RA 9165. In *People v. Denoman*,<sup>31</sup> the Court explained:

A successful prosecution for the sale of illegal drugs requires more than the perfunctory presentation of evidence establishing each element of the crime: the identities of the buyer and seller, the transaction or sale of the illegal drug and the existence of the *corpus delicti*. In securing or sustaining a conviction under RA No. 9165, the intrinsic worth of these pieces of evidence, especially the identity and integrity of the *corpus delicti*, must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. **Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for possession or for drug pushing under RA No. 9165 fails.**<sup>32</sup> (Emphasis supplied)

Section 21, Article II of RA 9165 provides the procedural safeguards that the apprehending team should observe in the handling of seized illegal drugs in order to preserve their identity and integrity as evidence. "As indicated by their *mandatory terms*, strict compliance with the prescribed procedure is essential and the prosecution must show compliance in every case."<sup>33</sup>

The procedure under Section 21, par. 1 of RA 9165, as amended by RA 10640,<sup>34</sup> is as follows:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, x x x so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs, x x x shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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

<sup>31</sup> 612 Phil. 1165 (2009).

<sup>32</sup> *Id.* at 1175.

<sup>33</sup> *Id.* Italics supplied.

<sup>34</sup> AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002". Approved July 15, 2014.

nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

In this case, the records show that the buy-bust team had failed to *strictly* comply with the prescribed procedure under Section 21, par. 1. Although the seized items were marked at the police station, there is nothing on record to show that the marking had been done in the presence of appellant or his representatives.<sup>35</sup> Clearly, this constitutes a major lapse that, when left unexplained, is *fatal* to the prosecution's case.

To be sure, non-compliance with the prescribed procedures under Section 21, par. 1, does not, as it should not, *automatically* result in an accused's acquittal. The last sentence of Section 21(1), Article II of RA 9165, as amended, provides a saving mechanism, *viz.*:

*Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

However, this saving mechanism operates only "under justifiable grounds, and as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team."<sup>36</sup> Thus, it is incumbent upon the prosecution to: a) recognize and explain the lapse or lapses committed by the apprehending team; and b) demonstrate that the integrity and evidentiary value of the evidence seized had been preserved, despite the failure to follow the procedural safeguards under RA 9165.<sup>37</sup>

Unfortunately, the prosecution failed not only to recognize and explain the procedural lapses committed by the buy-bust team, but also to adduce evidence establishing the chain of custody of the seized items that would demonstrate that the integrity and evidentiary value of said items had been preserved.

In *Derilo v. People*,<sup>38</sup> the Court laid down the guidelines in order to show an unbroken chain of custody of seized dangerous drugs, *viz.*:



<sup>35</sup> See TSN, April 13, 2010, pp. 3-4; records, pp. 108-109. See also TSN, May 31, 2011, pp. 11-12; records, pp. 220-221.

<sup>36</sup> *People v. Prudencio*, G.R. No. 205148, November 16, 2016.

<sup>37</sup> *People v. Denoman*, supra note 31 at 1178.

<sup>38</sup> Supra note 27 at 687.




To show an unbroken link in the chain of custody, **the prosecution's evidence must include testimony about every link in the chain**, from the moment the item was seized to the time it is offered in court as evidence, such that every person who handled the evidence would acknowledge how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. The same witness would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have its possession. **It is from the testimony of every witness who handled the evidence from which a reliable assurance can be derived that the evidence presented in court is one and the same as that seized from the accused.**<sup>39</sup> (Emphasis in the original)

In simpler terms, the following links must be established in order to ensure that the identity and integrity of the seized items had not been compromised: **first**, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; **second**, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; **third**, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and **fourth**, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>40</sup>

**a) The first and second links**

The first crucial link in the chain of custody pertains to the time the marijuana was seized from appellant up to its delivery at the police station.

Although the records show that PO1 Reyes turned over the sachet of marijuana that was the subject of the sale to SPO1 Delos Reyes at the police station,<sup>41</sup> and SPO1 Delos Reyes himself was the one who confiscated the four sachets of marijuana and one plastic pack containing a brick of marijuana after conducting a lawful search on appellant,<sup>42</sup> their testimonies are glaringly silent on details regarding the *handling* and *disposition* of the seized items after appellant's arrest. They both failed to disclose the identity of the person/s who had custody and possession of the confiscated items after their seizure, or that they themselves had retained custody of the same from the place of arrest until they reached the police station.<sup>43</sup>



---

<sup>39</sup> Id. at 687.

<sup>40</sup> Id.

<sup>41</sup> TSN, April 13, 2010, p. 3; records, p. 108.

<sup>42</sup> TSN, May 31, 2011, pp. 9-10; records; pp. 218-219.

<sup>43</sup> *People v. Kamad*, 624 Phil. 289, 304-305 (2010).

**b) The third link**

The prosecution's evidence relating to the third link in the chain of custody, *i.e.*, the turnover of the seized items from the investigating officer to the forensic chemist, also has loopholes. The pertinent portion of SPO1 Delos Reyes' direct testimony is quoted below:

[FISCAL M. F. BAÑARES]

Q: Mr. Witness, was the PNP Crime Laboratory able to examine the evidence recovered from [appellant]?

A: Yes, ma'am.

Q: Who turned over the sachets of marijuana to the PNP Crime Laboratory for examination?

A: I myself ma'am, and the other CAIDSOT members.

Q: What evidence do you have to prove that you were the one who turned over the marijuana with the PNP Crime Laboratory?

A: I signed the delivery receipt.

Q: Are you referring to the stamp receipt that you brought the specimen to the crime laboratory for examination?

A: Yes, sir [sic].<sup>44</sup>

The said request for laboratory examination, as well as the specimens, were supposedly received by a certain "PO1 Menor."<sup>45</sup> However, SPO1 Delos Reyes did not testify in this regard; neither did "PO1 Menor." Clearly, the prosecution failed to disclose the identity of the person who had custody of the seized items after its turnover by SPO1 Delos Reyes; the identity of the person who turned over the items to Forensic Chemist Dascil, and the identity of the person who had custody thereof after they were examined by the forensic chemist and before they were presented in court.

**c) The fourth link**

The fourth link in the chain of custody, *i.e.* **the turnover of the seized items from the forensic chemist to the court**, presents an unusual twist in the prosecution's evidence in this case. Notably, the forensic chemist did not testify in court. Instead, the prosecution and the defense stipulated on her testimony as follows:

1. That Arlyn Dascil is a Forensic Chemist assigned at the PNP Crime Laboratory in Olongapo City;

<sup>44</sup> TSN, May 31, 2011, p. 19; records, p. 227.

<sup>45</sup> See records, p. 144.

2. That she examined the specimen subject matter of [the] case;
3. That based on her examination, the specimen subject of [the] case was found positive for marijuana as shown by Chemistry Report No. D-074-2009, marked as Exhibit "F";
4. **That upon the request of the City Prosecutor's Office, the Evidence Custodian of [the] PNP Crime Laboratory turned over the specimen subject matter of [the] case to the Prosecutor's Office.**<sup>46</sup> (Emphasis supplied)

It appears, based on the prosecution's evidence no less, that for reasons unknown, the PNP Crime Laboratory agreed to turn over custody of the seized items to an *unnamed* receiving person at the City Prosecutor's Office *before* they were submitted as evidence to the trial court. It should be emphasized that the City Prosecutor's Office is not, nor has it ever been, a part of the chain of custody of seized dangerous drugs. It has absolutely no business in taking custody of dangerous drugs before they are brought before the court.

Given the flagrant procedural lapses committed by the police in handling the seized marijuana and the *serious* evidentiary gaps in the chain of its custody, the lower courts clearly misapplied the presumption of regularity in the performance of official duties in the prosecution's favor. After all, it is settled that **a presumption of regularity cannot arise where the questioned official acts are *patently irregular*,**<sup>47</sup> as in this case.

All told, the totality of these circumstances leads the Court to inevitably conclude that the identity of the *corpus delicti* was not proven beyond reasonable doubt. The failure of the prosecution to establish an unbroken chain of custody over the seized marijuana is *fatal* to its cause.

**WHEREFORE**, premises considered, we hereby **REVERSE** and **SET ASIDE** the January 29, 2015 Decision of the Court of Appeals in CA-G.R. CR-HC No. 05930. Appellant Glenn De Guzman y Delos Reyes is hereby **ACQUITTED** of the charges of violation of Sections 5 and 11, Article II of Republic Act No. 9165, for failure of the prosecution to prove his guilt beyond reasonable doubt. His immediate **RELEASE** from detention is hereby ordered unless he is being held for another lawful cause.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then also directed to report to this Court the action he has taken within five days from his receipt of this Decision.


<sup>46</sup> Id. at 135.

<sup>47</sup> See *People v. Kamad*, supra note 43 at 311. Emphasis and italics supplied.

**SO ORDERED.**

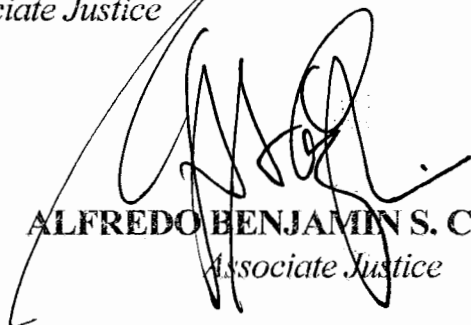
  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

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


  
**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*

  
**DIOSDADO M. PERALTA**  
*Associate Justice*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*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's Division.

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