

SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,      G.R. NO. 221436  
Plaintiff-Appellee,

Present:

-versus-

CARPIO, *Chairperson*  
PERLAS-BERNABE,  
CAGUIOA,  
J. REYES, JR., and,  
LAZARO-JAVIER, *JJ*

ERIC DUMDUM,  
Accused-Appellant.

Promulgated:

26 JUN 2019

X-----*W. Cabalag*-----X

**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

This appeal assails the Decision<sup>1</sup> dated May 27, 2015 of the Court of Appeals (CA) affirming the trial court's verdict of conviction<sup>2</sup> against appellant Eric Dumdum for rape.

<sup>1</sup> Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Josep Y. Lopez, *CA rollo*, pp. 4-19.  
<sup>2</sup> Refers to Decision dated May 25, 2012 of the Regional Trial Court (RTC), Branch 29 of Toledo City, Cebu in Criminal Case No. TCS-2907, *CA rollo*, pp. 11-18.

*h*

### The Information

Appellant Eric Dumdum was charged with rape, as follows:

“That on the 17<sup>th</sup> day of November,(sic) 1997, at about 9:00 o’clock in the evening, at [REDACTED], [REDACTED], Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge with AAA,\* 14 years of age, against her will and consent.

CONTRARY TO LAW.”<sup>3</sup>

The case was raffled to the Regional Trial Court (RTC), Branch 29, Toledo City, Cebu.

### The Proceedings before the Trial Court

On arraignment, appellant pleaded not guilty.<sup>4</sup> During the trial, AAA and Dr. Roderick Asagra testified for the prosecution. On the other hand, appellant Eric Dumdum and Lucille Ricaña testified for the defense.

### Evidence of the Prosecution<sup>5</sup>

Fourteen year old AAA worked at a canteen at [REDACTED], [REDACTED], [REDACTED], Cebu. On November 17, 1997, around 9 o’clock in the evening, she left her workplace. She passed by the store of Ramos along the national road and in front of the [REDACTED] National Hospital. She bought food and ate at the store, thereafter, she headed home. She walked by the side of [REDACTED] National High School. As she was walking, she heard appellant call her name so she approached him. She knew appellant was one of the workers in Metaphil Corporation where she delivered food.

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\* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to R.A. No. 760, “An Act providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”; R.A. No. 9262, “An Act Defining Violence Against Women and their Children Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes”; Section 40 of A.M. No. 04-10-11 SC known as the “Rule on Violence Against Women and their Children”, effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

<sup>3</sup> CA rollo, p. 11.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 12-14.

Appellant dragged her to a dark area near the corner of the road where there were no vehicles passing by. There were also no houses around. Appellant lifted her and laid her down on the grass. She tried resisting him but failed. He threatened to kill her and her parents. Appellant then removed her t-shirt and shorts, sucked her breast, and kissed her neck. He took off her panty and went on top of her. He, too, removed his briefs, spread her legs open, and inserted his penis in her vagina. She felt pain while appellant made push and pull movements for about a minute. He continued kissing her neck while she cried.

When appellant had finished ravishing her, he let her leave. She did not tell anyone about the rape because she was scared appellant would make good his threat to kill her and her parents. Two days later, her co-worker told her parents about the kiss marks on her neck. Consequently, she was constrained to tell her parents what really happened to her. Together with her parents, she went to the municipal hall of [REDACTED] to have the incident blotted. She was also medically examined by Dr. Roderick Asagra.

Dr. Asagra's medical findings revealed hymenal lacerations and contusions on AAA's breast, viz "2.0 cm. x 1.5 cm. contusion on the left breast or a bruising due to hematoma about 1 to 3 days old because it was still bluish; the genitalia admitted one finger with ease and the hymen was lacerated at 10 o'clock position most likely caused by a penetrating penis."<sup>6</sup>

### **Evidence for the Defense<sup>7</sup>**

Appellant claimed that on November 17, 1997, he and another companion were drinking with his cousin Owen Dumdum in front of the store where AAA bought and ate her snacks. They finished drinking around 9 o'clock in the evening and he arrived home by 9:30 in the evening. He admitted knowing AAA because he was a customer at the canteen where she worked. He denied having seen AAA approach the store that night. He quit his work at the Metaphil Corporation two days after the incident when he learned of the case filed against him. He left [REDACTED], [REDACTED] Cebu on November 21, 1997 or four days after the incident.

Lucille Ricaña testified she was the niece of the owner of the store which appellant frequented. On November 17, 1997, she tended the store from the time it opened until it closed by 10 o'clock in the evening. Appellant and his companions arrived around 5:30 in the afternoon and drank until 9 o'clock in the evening, after which, they all went home. She denied seeing AAA that night.

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<sup>6</sup> TSN dated December 7, 2007.

<sup>7</sup> *Rollo*, pp. 14-15.

### The Trial Court's Ruling

By Decision dated May 25, 2012, the trial court rendered a verdict of conviction, thus:

**WHEREFORE**, in light of the foregoing, judgment is hereby rendered finding accused **ERIC DUMDUM** "*guilty*" beyond reasonable doubt of the crime of Rape and he is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA** together with all the accessory penalties provided for by law and to indemnify private complainant AAA the following amounts:

1. Fifty thousand Pesos (P50,000) by way of civil indemnity; and
2. Fifty thousand Pesos (P50,000) by way of moral damages.

The preventive imprisonment undergone by accused is fully credited in his favor.

With costs against accused.

SO ORDERED.<sup>8</sup>

The trial court gave full credence to AAA's detailed narration on how appellant succeeded in having sexual intercourse with her, through force and intimidation. It also found that her testimony was corroborated by the physical evidence and Dr. Asagra's expert testimony. Finally, it rejected appellant's bare denial and alibi in light of AAA's positive testimony that it was he who sexually violated her.

### The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction despite alleged improbabilities<sup>9</sup> in AAA's testimony, viz: *first*, the rape incident could not have happened in a place along a well-lighted highway surrounded by a cluster of houses<sup>10</sup> without exposing himself to the eyes and ears of the residents there; *second*, although AAA claimed to have stopped by the store on her way home, store attendant Lucille Ricaña could not recall having seen her;<sup>11</sup> and *third*, considering that after drinking with his friends in the same store, he left around 9 o'clock in the evening,<sup>12</sup> he could not have crossed paths with the victim.

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<sup>8</sup> *Supra* note 2, at 18.

<sup>9</sup> *Rollo*, pp. 8-9.

<sup>10</sup> *CA rollo*, p. 33.

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

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

On the other hand, the Office of the Solicitor General (OSG)<sup>13</sup> riposted that the elements of rape were sufficiently established through AAA's candid, spontaneous, and straightforward testimony that appellant had carnal knowledge of her through force and intimidation.<sup>14</sup>

By Decision dated May 27, 2015, the Court of Appeals affirmed with modification, viz:

**WHEREFORE**, the Decision dated May 25, 2012, rendered by the Regional Trial Court, Branch 29, Toledo City in Crim. Case No. TCS-2907, finding the appellant, Eric Dumdum, guilty beyond reasonable doubt of the crime of Rape and sentencing him to suffer the penalty of *reclusion perpetua* together with all the accessory penalties provided by law is hereby **AFFIRMED** with the following **MODIFICATIONS** as to damages only:

1. The amount of civil indemnity is increased to P75,000.
2. The appellant is ordered to pay the victim the amount of P30,000 as exemplary damages.
3. The amount of P50,000 as moral damages is retained.
4. An interest of 6% per annum is imposed on all damages awarded from the date of finality of this judgment until fully paid.

**SO ORDERED.**<sup>15</sup>

The Court of Appeals concurred with the trial court's factual findings. It rejected the alleged improbabilities appellant had raised. It noted that appellant left four days after the incident and he got arrested at [REDACTED], [REDACTED], Cebu after nine years of hiding.<sup>16</sup> It, thus, considered appellant's flight right after the incident as a *major indicium* of guilt.

### The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution dated June 6, 2016, both appellant and the OSG manifested that in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.<sup>17</sup>

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<sup>13</sup> Through Former Solicitor General, now Associate Justice of the Supreme Court Hon. Francis H. Jardeleza, Assistant Solicitor General Rex Bernardo L. Pascual, and Senior State Solicitor Arturo C. Medina.

<sup>14</sup> *Id.* at 72-75.

<sup>15</sup> *Rollo*, pp. 18-19.

<sup>16</sup> *Record*, p. 48.

<sup>17</sup> *Rollo*, pp. 26-27.

**Issue**

Did the CA err in affirming appellant's conviction for rape?

**Ruling**

The appeal must fail.

Fourteen year old AAA recounted in detail how appellant sexually violated her in the evening of November 17, 1997, viz:

Q. On your way home, do you recall of any unusual incident that happened?

xxx

xxx

xxx

A. While I was walking towards home, somebody called my name, so I approached him.

xxx

xxx

xxx

Q. xxx Who was that person?

A. Eric Dumdum.

xxx

xxx

xxx

Q. After you approached Eric Dumdum, who called you, what happened next, if any?

A. He dragged me to the dark place and asked me how old am I.

Q. Aside from that question did he ask you any other question?

A. He asked me also if ever I have already my menstrual period and I told him, not yet.

xxx

xxx

xxx

**Q. You said that Eric Dumdum dragged you. What did you do when he dragged you, if any?**

**A. I resisted but I was not able to be released because he held me tightly in my arm.**

**Q. When you arrived in that dark place, what happened next?**

**A. He also dragged me to a little bit far distance and he lifted me and made me lie down on the ground.**

Q. xxx was there anything that happened that you can remember?

A. He embraced and kissed me.

Q. Which part of your body did he kiss?

A. In my neck.

Q. What did you do when he kissed you in the neck?

A. I got angry.

xxx

xxx

xxx

Q. You said that he also embraced you. What did you do when he embraced you?

A. I pushed him.

xxx

xxx

xxx

Q. How did you feel when he kissed you and embraced you?

A. I was afraid.

Q. Because you were afraid, did you say anything to him?

A. I did not say anything because of fear.

**Q. What about Eric Dumdum, if you can still remember, did he say anything to you while he was kissing and embracing you?**

**A. He told me that if I will tell my parents he will kill us.**

xxx

xxx

xxx

Q. You said that Eric Dumdum succeeded in making you lie down on the ground. What happened after that Miss witness, if any?

**A. His body was placed on top of me.**

**Q. What else did he do aside from that?**

**A. He took off my underwear.**

xxx

xxx

xxx

**Q. What did you do while he was taking off your city shorts?**

**A. I tried to pull up my city shorts while he tried also to pull it down.**

Q. Did he succeed in taking off your city shorts?

A. Yes ma'am.

Q. You said that you tried to pull up your city shorts while he tried to pull it down. How was he able to do it and take it off from you when you were resisting him?

A. Because he took my hands off.

Q. After the city shorts (were) taken off, what happened next miss witness?

A. He kept on kissing me and sucked my breast then he kept on kissing my neck.

xxx

xxx

xxx

**Q. After he was able to spread your legs apart, what happened next?**

**A. That was the time he was able to successfully insert his penis into my vagina.**

**Q. How did you know that his penis was already inserted into your vagina?**

**A. Because I felt it inside me.**

Q. Aside from feeling his penis inside your vagina, what else did you feel if any?

A. I felt pain.

Q. When his penis was already inserted in your vagina, what did Eric Dumdum do, if any?

A. He made a push and pull movement.

Q. If you can still remember, how long did it take him, that push and pull movement before he finally stopped doing it?

A. One (1) minute.

Q. xxx do you remember him uttering you anything while his penis was inserted into your vagina and was doing the push and pull movement?

**A. Yes Ma'am, he told me that if ever I will tell my parents, he will kill us.**

Q. You said that Eric finally stopped executing the push and pull movement after more or less a minute. What happened after that?

A. He was caressing me continuously.

Q. Will you please describe to us how was this done?

A. He kissed my neck.

Q. What did you do at that time if any?

A. I did nothing but cried continuously.

Q. Why did you cry?

A. Because dof (sic) fear that he raped me.



Q. After that, what happened next, if any?

A. After he kissed me he made me go home.

Q. When you reached home, did you tell anyone about the incident considering the fact that he threatened to kill you?

A. No ma'am.

Q. Why?

A. Because I remember what he said that he will kill us if I will tell my parents.

Q. When did you finally tell people about what happened to you since this case was already filed?

A. After two (2) days of the incident.<sup>18</sup>

xxx

xxx

xxx

The trial court keenly noted AAA's positive, straightforward, and categorical narration on how accused "dragged her to a dark place; threatened to kill her should she tell anyone; removed her t-shirt, city shorts, and panty despite her resistance; forcibly laid her on the grass; kissed her and sucked her breast; removed his brief, laid on top of her; inserted his penis in her vagina and made push and pull movements for about one minute."<sup>19</sup>

A victim of tender age would not have narrated such sordid details had she not experienced them. In a long line of cases,<sup>20</sup> the Court has given full weight and credence to the testimony of child victims.<sup>21</sup> For it is highly improbable that a girl of tender years would impute to any man a crime so serious as rape if what she claims is not true.<sup>22</sup> Thus, AAA's testimony rings a bell of truth. Even standing alone, her credible testimony is sufficient to convict appellant<sup>23</sup> given the intrinsic nature of the crime of rape where only two persons are usually involved.

But this is not all. AAA's testimony firmly conformed with Dr. Asagra's medical report that she sustained contusions on her left breast, her vagina admitted one finger with ease, and the hymen was lacerated at 10 o'clock position most likely caused by a penetrating penis.<sup>24</sup> These findings solidly supported AAA's testimony that appellant dragged her to a dark place, forced her to lie on the ground, kissed her, sucked her breast, and inserted his penis

<sup>18</sup> TSN, AAA, July 5, 2007, pp. 4-13.

<sup>19</sup> *Rollo*, pp. 15-16.

<sup>20</sup> See *Pielago v. People*, 706 Phil. 460, 471(2013); *Campos v. People*, 569 Phil. 658, 671 (2008), citing *People v. Capareda*, 473 Phil. 301, 330 (2004); *People v. Galigao*, 443 Phil. 246, 260 (2003).

<sup>21</sup> See *People v. Oliva*, 616 Phil. 786, 792 (2009)

<sup>22</sup> See *People v. Closa*, 740 Phil. 777, 785 (2014), citing *People v. Pangilinan*, 547 Phil. 260, 285-286 (2007).

<sup>23</sup> See *Ricalde v. People*, 751 Phil 793, 807 (2015); *Garingarao v. People*, 669 Phil. 512, 522 (2011); *People v. Tagaylo*, 398 Phil. 1123, 1131-1132 (2000).

<sup>24</sup> Record, Exhibit C.

in her vagina. Indeed, when the forthright testimony of a rape victim is consistent with medical findings, it is sufficient to support a verdict of guilt for rape.<sup>25</sup>

Notably, appellant himself has not imputed any ulterior motive which could have impelled AAA to falsely accuse him of such heinous crime as rape. Her disclosure that she had been raped, coupled with her submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of assault against her dignity, cannot be easily dismissed as mere concoction.<sup>26</sup>

Appellant, nonetheless, undermines AAA's testimony for being allegedly improbable on three counts: **first**, he refers to the improbability of allowing himself to be exposed to the eyes and ears of people living along a well-lighted national highway near the supposed *locus criminis*;<sup>27</sup> **second**, the improbability that AAA stopped by a store to buy food, considering that the store attendant could not even recall having seen her;<sup>28</sup> and **third**, the improbability that she crossed paths with complainant around 9 o'clock in the evening of November 17, 1997 considering that around that time, he had already left the same sari-sari store and boarded a tricycle to take him home.<sup>29</sup>

We are not persuaded.

**For one**, rapists are not discouraged from committing sexual abuse by the mere presence of people nearby. In other words, rape is committed not exclusively in seclusion.<sup>30</sup> The Court has consistently recognized that rape may be committed even in places where people congregate, in parks, along roadside, within school premises, inside an occupied house, and even where other members of the family are sleeping.<sup>31</sup> For lust is no respecter of time and place.<sup>32</sup> At any rate, according to AAA, appellant dragged her to a grassy area where no vehicles were passing by and there were no houses around. **For another**, whether the store attendant could recall or recognize the face of AAA as a customer on the night in question does not have any bearing on appellant's culpability. For AAA positively identified him as the one who sexually forced himself on her around 9 o'clock in the evening of November 17, 1997. **Finally**, appellant's alibi that he had already left the store and gone home around the same time AAA got raped must fail. In order that alibi may be accorded credibility, appellant must positively demonstrate his presence at another place at the time of the commission of the offense as well as the physical impossibility for him to be at the *locus criminis* around the same time.<sup>33</sup> Here, appellant did not present any compelling evidence that it was not

<sup>25</sup> See *People v. Sabal*, 734 Phil. 742, 746 (2014), citing *People v. Perez* 595 Phil. 1232, 1258 (2008).

<sup>26</sup> See *People v. Gabiana*, 393 Phil. 208, 216 (2000).

<sup>27</sup> *Rollo*, p. 8.

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

<sup>29</sup> *Id.*

<sup>30</sup> See *People v. Barberan, et al*, 788 Phil. 103, 110 (2016), citing *People v. Corial*, 451 Phil. 703, 709-710 (2003).

<sup>31</sup> See *People v. Lor*, 413 Phil. 725, 736 (2001).

<sup>32</sup> See *People v. Malones*, 469 Phil. 301, 326 (2004).

<sup>33</sup> See *People v. De Leon*, 428 Phil. 556, 575 (2000).

physically impossible for him to be at the crime scene on the date and time the crime was committed. In any event, alibi cannot prevail over the victim's positive and unwavering identification of appellant as the one who succeeded in having carnal knowledge of her through force and intimidation.<sup>34</sup> So must it be.

We agree with the Court of Appeals that appellant's abrupt disappearance which lasted for nine long years was indicative of guilt. Appellant disclosed that he abandoned his work two days after he was charged with rape. He also admitted that he left Balamban on November 21, 1997 or four days after the alleged crime was committed. It is well-settled that the flight of an accused may be taken as evidence to establish his guilt.<sup>35</sup> Indeed, the wicked fleeth when no men pursueth, but the innocent is as bold as a lion.<sup>36</sup>

All told, the Court of Appeals did not err in affirming appellant's conviction for rape and the penalty of *reclusion perpetua* imposed on him. This is in accordance with Article 266-A, in relation to 266-B of the Revised Penal Code, viz:

Article 266-A. Rape: When And How Committed. - Rape is committed:

1) **By a man who shall have carnal knowledge of a woman** under any of the following circumstances:

a) **Through force, threat, or intimidation;**

xxx

xxx

xxx

Article 266-B. penalty. – **Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.**

xxxx (Emphases supplied)

The Court, however, modifies the award of exemplary damages and moral damages. In accordance with prevailing jurisprudence<sup>37</sup> the award of exemplary damages should be increased from P30,000.00 to P75,000.00 and moral damages from P50,000.00 to P75,000.00. On the other hand, the award of P75,000.00 as civil indemnity and the grant of six percent interest on these amounts from finality of decision until fully paid are affirmed.

Accordingly, the appeal is **DISMISSED**, and the assailed Decision dated May 27, 2015 of the Court of Appeals, **AFFIRMED WITH MODIFICATION** as heretofore stated.

<sup>34</sup> See *People v. Vitero*, 708 Phil. 49, 63 (2013).

<sup>35</sup> See *People v. Lobrigas*, 442 Phil. 382, 392 (2002).

<sup>36</sup> See *People v. Mores*, 712 Phil. 480, 495 (2013).

<sup>37</sup> See *People v. Jugueta*, 783 Phil. 806, 849 (2016).

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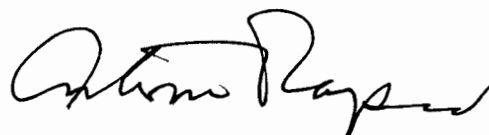
**ERIC DUMDUM** is found **GUILTY** of **Rape** and sentenced to **Reclusion Perpetua**. He is required to pay AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages, and exemplary damages in the amount of P75,000.00.

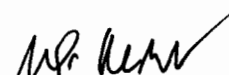
These amounts shall earn six percent interest per annum from finality of this Decision until fully paid.

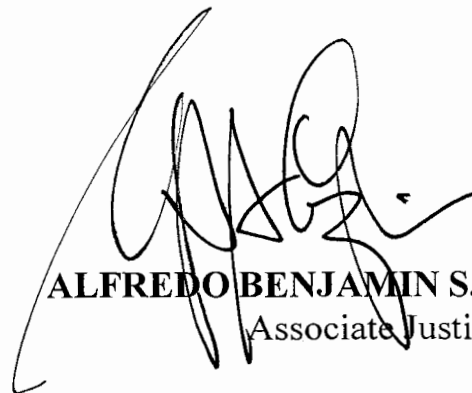
**SO ORDERED.**

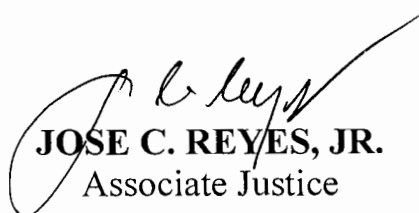
  
**AMY C. LAZARÓ-JAVIER**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**JOSE C. REYES, JR.**  
Associate Justice

**ATTESTATION**

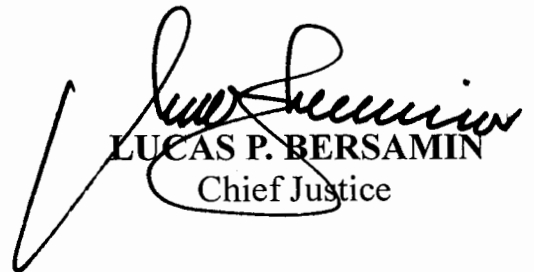
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the above 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.



**LUCAS P. BERSAMIN**  
Chief Justice

