



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

PEOPLE OF THE G.R. No. 241779
 PHILIPPINES, Plaintiff-Appellee, Present:

- versus -

LEONEN, J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 ROSARIO, JJ.

ALBERTO PEREZ y Promulgated:
 ESABIDRA, Accused-Appellant. December 9, 2020
 Mis-ADCBatt

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DECISION

DELOS SANTOS, J.:

The Case

This appeal assails the Decision¹ dated September 8, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07880 affirming Alberto Perez y Esabidra's (accused-appellant) conviction for Slight Physical Injuries and Murder.

The Proceedings Before the Trial Court

The Charges

Two separate *Informations* for Frustrated Murder and Murder were filed against accused-appellant, viz.:

¹ Penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Magdangal M. De Leon and Franchito N. Diamante, concurring; *rollo*, pp. 2-15.

Criminal Case No. 2007-852

That on or about the 14th day of July 2007, at Barangay Matipunso, Municipality of San Antonio, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill, qualified by treachery and superior strength, did then and there willfully, unlawfully and feloniously attack, assault, and stab with said knife one ANASTACIA LANDICHO y PEREZ, who was then 63 years old, thereby inflicting upon the latter "punctured wound" on her left breast, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of causes independent of the will of the accused, that is, by the timely and able medical attendance rendered to said Anastacia P. Landicho, which prevented her death.

CONTRARY TO LAW.²

Criminal Case No. 2007-853

That on or about the 14th day of July 2007, at Sitio Gulugod Baboy, Barangay Matipunso, Municipality of San Antonio, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill, qualified by treachery, did then and there willfully, unlawfully and feloniously attack, assault and repeatedly stab with said knife one DOMINGO PEREZ LANDICHO, who was then sleeping inside their house, thereby inflicting upon the latter multiple wounds on different parts of his body, which directly caused his instant death.

CONTRARY TO LAW.³

On arraignment, accused-appellant pleaded not guilty to both charges. Joint trial ensued.

The Prosecution's Version

Domingo Landicho (Domingo) is the son of Anastacia Landicho (Anastacia). Accused-appellant is the grandson of Anastacia's sister.

On July 14, 2007, around 8:00 in the evening, victims Anastacia and Domingo were at their house in Matipunso, San Antonio, Quezon. Accused-appellant came to their house and asked permission to watch television. Anastacia was used to this since accused-appellant always watched television in her house. Being the grandson of victim Anastacia's sister, accused-appellant was also well-known to her.⁴

² Id. at 4.

³ Id. at 4-5; CA *rollo*, p. 43.

⁴ *Rollo*, pp. 2-3.

Together, accused-appellant and Anastacia watched the television. At the time, Domingo was sound asleep in the kitchen. Accused-appellant asked for water so Anastacia went to the kitchen. As she was getting water, she turned around and witnessed accused-appellant in the act of stabbing her sleeping son, Domingo, with a knife. She asked him, "*Why did you do that to my son[,] when he was doing nothing and just sleeping?*" Accused-appellant then turned his attention to Anastacia and attacked her with the knife he was holding. Anastacia was hit in her left breast but she was able to evade the full force of the attack. Domingo then declared that he was struck, to which Anastacia answered that she was stabbed herself too.⁵

Anastacia shouted for help but accused-appellant ran away before anyone could arrive. Her daughter-in-law Mary Jane Landicho (Mary Jane), who was then sleeping in her own house nearby, was awakened by Anastacia's shouts for help. Alarmed, she immediately went to Anastacia's house and saw the latter carrying the bloody body of Domingo. She observed that there was blood coming out of their bodies and Domingo appeared to have been disemboweled because his intestines were falling out.⁶ Anastacia told her that it was accused-appellant who stabbed both of them. She asked for help from their neighbors but no one came to their aid. Domingo thereafter died.⁷

Brgy. Chair Ruben Mendoza (Brgy. Chair Ruben) was informed about the stabbing incident by a Tanod named Bienvenido. He reported the incident to the police officers. When he arrived at the house of Anastacia, he saw the body of Domingo and then talked to Anastacia.⁸ Anastacia recalls that it was Brgy. Chair Ruben who brought her to the hospital.⁹

The result of Domingo's post-mortem examination conducted by Dr. Wilma Laroza (Dr. Laroza) shows that he suffered five (5) stab wounds on the chest and abdomen which eventually caused shock and severe hemorrhage resulting in his death. On the other hand, Dr. Joseph Palmero (Dr. Palmero), the physician who examined Anastacia, found that the latter sustained a punctured wound on the left breast which was not penetrating and non-fatal.¹⁰

Anastacia failed to present receipts of her hospitalization and medical expenses as well as the expenses she incurred for Domingo's burial and funeral service.¹¹

⁵ Id. at 3.

⁶ Id.

⁷ Id. at 3-4.

⁸ TSN, May 12, 2009, p. 4.

⁹ TSN, September 30, 2008, pp. 9-11.

¹⁰ *Rollo*, p. 4.

¹¹ CA *rollo*, p. 47.

The Defense's Version

Accused-appellant denied both charges. He testified that he was a resident of Brgy. Matipunso, San Antonio, Quezon when he was still single but moved to Balintawak, Caloocan City when he got married in 1994. He claimed that he was in his house in Bulacan with his family on July 14, 2007, when the stabbing incident happened.¹²

Accused-appellant's wife Thelma Perez (Thelma) corroborated his alibi. She testified that accused-appellant was with her in their house in Brgy. Masagana, Pandi, Bulacan on July 14, 2007.¹³

The Trial Court's Ruling

By Joint Decision¹⁴ dated August 27, 2015, the trial court rendered a verdict of conviction against accused-appellant for Slight Physical Injuries and Murder, *viz.*:

WHEREFORE, premises considered, the accused is found by this Court guilty beyond reasonable doubt of a crime of Murder under **Criminal Case No. 2007-853** and hereby imposes upon him a penalty of "**RECLUSION PERPETUA**," and to pay the heirs of the victim, the following:

- (a) [P] 50,000.00 as moral damages;
- (b) [P] 50,000.00 as indemnity; and
- (c) [P] 25,000.00 by way of temperate damages;
- (d) Cost of suit.

In **Criminal Case No. 2007-852** for slight physical injuries, this Court imposes upon the accused a penalty of **ARRESTO MENOR**, and to pay private complainant the following:

- (a) [P] 3,000.00 as actual damages;
- (b) [P] 10,000.00 as moral damages; and
- (c) Cost of suit.

SO ORDERED.¹⁵

The trial court held that Anastacia could not have been mistaken as to the identity of the person who killed her son Domingo and inflicted wound upon her. *First*, although it happened at nighttime, there was power supply as accused-appellant and Anastacia watched television. *Second*, Anastacia

¹² TSN, February 24, 2015, p. 5.

¹³ TSN, March 10, 2015, pp. 4-7.

¹⁴ Penned by Presiding Judge Agripino R. Bravo; *CA rollo*, pp. 45-55.

¹⁵ *Id.* at 55.

knew accused-appellant being the grandson of her own sister and a neighbor as well. *Lastly*, before the stabbing incident, Anastacia had a face-to-face interaction with accused-appellant.¹⁶

The trial court further held that there was no ill motive on the part of Anastacia to falsely implicate accused-appellant in the cases. Moreover, Anastacia's claim was corroborated by Mary Jane who testified that when she arrived at the crime scene, Anastacia told her that it was accused-appellant who stabbed her and her son Domingo.¹⁷

Lastly, the trial court found that the killing of Domingo was attended by treachery. He was not in a position to defend himself at the time of attack. Thus, accused-appellant is guilty of Murder for his death. On the other hand, for the attack and the wound sustained by Anastacia, the trial court found accused-appellant guilty of Slight Physical Injuries only.¹⁸

The CA's Ruling

In a Decision¹⁹ dated September 8, 2017 the CA affirmed accused-appellant's conviction for both crimes of Slight Physical Injuries and Murder with modification as to the awards of damages

The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the *Appeal* filed by Alberto Perez y Esabidra on 10 September 2015 is **DENIED**. The *Joint Decision* rendered by Branch 55 of the Regional Trial Court of Lucena City on 27 August 2015 in Criminal Cases No. 2007-852 and No. 2007-853 is **AFFIRMED** with **MODIFICATION**. In accord with recent jurisprudence, the awards of moral damages and civil indemnity in Criminal Case No. 2007-853 are each increased to PHP75,000.00, while an award of exemplary damages in the amount of PHP75,000.00 is bestowed in addition to the temperate damages already imposed by the trial court *a quo*. In Criminal Case No. 2007-852, the award of actual damages is deleted for the failure to present proof of the expenses relating to the injuries sustained, while the amount of moral damages is reduced to PHP50,000.00. All amounts of damages awarded shall earn interest at the legal rate of 6% per annum commencing from the date of finality of judgment until fully paid.

SO ORDERED.²⁰

¹⁶ Id. at 53.

¹⁷ Id. at 54.

¹⁸ Id. at 54-55.

¹⁹ *Rollo*, pp. 2-15.

²⁰ Id. at 13-14.

The Present Appeal

Accused-appellant now seeks affirmative relief from this Court and prays anew for his acquittal. He assails the sufficiency of evidence relied upon for his conviction. He particularly challenges the credibility of eyewitness victim Anastacia who allegedly gave testimony inconsistent with the testimonies of other prosecution witnesses. He also claims that he was present somewhere else when the stabbing incident happened in the house of Anastacia on July 14, 2007.

Issue

The issue for the Court's resolution is whether or not the CA erred in affirming accused-appellant's conviction for Slight Physical Injuries and Murder.

The Court's Ruling

The appeal lacks merit.

Accused-appellant challenges in the main his conviction for Murder. He faults both the trial court and the CA for giving credence to the testimony of victim Anastacia despite its inconsistencies with the testimonies of other prosecution witnesses, allegedly casting doubt on her credibility and the veracity of her claims.

The Court stressed in *People v. Gerola*:²¹

The assessment of the credibility of witnesses is a task most properly within the domain of trial courts. In *People v. Gahi*, the Court stressed that the findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the witnesses when placed on the stand. Consequently, appellate courts will not overturn the factual findings of the trial court in the absence of facts or circumstances of weight and substance that would affect the result of the case. Said rule finds an even more stringent application where the said findings are sustained by the CA, as in the case at hand.²² (Citations omitted)

Anastacia positively identified accused-appellant as the person who stabbed her and her son Domingo causing the latter's death. She testified that she saw accused-appellant in the act of stabbing her son Domingo who

²¹ 813 Phil. 1055 (2017).

²² Id. at 1063-1064.

was then sleeping. When she asked him why he stabbed Domingo, she was herself attacked and struck by him in the chest, viz.:

Direct examination

Q And where did Alberto Perez watch TV?

A In our house sir, he sat beside me.

Q How about your son Domingo where was he at that time?

A He was then sleeping at the kitchen sir.

Q While you were watching TV with Alberto what transpired next, if any?

A He requested for water and when I was then getting water from our kitchen Alberto Perez followed me and after a while I saw him already stabbing my son who was then sleeping sir.²⁴

x x x x

Q Were you able to talk to your son after he was stabbed by Alberto?

A I was not able to talk with him sir.

COURT:

Q Did he say anything?

A He did not say anything your honor except the words "ako'y may tama" and I answered "ako din."²⁵

x x x x

Q How many times did Alberto stab your son?

A Only one sir but his intestine came out.²⁶

x x x x

Q Then what did Alberto do, if any after he stabbed Domingo?

A After Alberto hit my son and I uttered the words "why did he do that to my son," he turned his attention to me, pulled out the knife, turned his attention towards me and hit me sir.

COURT:

Q Were you hit?

A Only a little your honor because I was able to evade it.²⁷

x x x x

COURT:

Q Which part of your body was injured by the accused?

A On my left breast your honor.²⁸

x x x x

²⁴ TSN, September 30, 2008, p. 6.

²⁵ Id. at 7.

²⁶ Id.

²⁷ Id. at 8.

²⁸ Id. at 9.

Q What happened to your son after the incident?
A He died sir.²⁹

x x x x

Cross-examination

Q Madam Witness, you said that you saw Alberto Perez stab your son, Domingo; where did he get the knife, Madam Witness?
A I don't know, mam. I don't know where the said knife came from because what I saw was, when I was getting a glass of water, when I looked back, I saw that he was already stabbing my son.³⁰

x x x x

COURT:

Q Were you surgically operated at that hospital?
A No Your Honor, because the wound I sustained was just superficial.

Place the vernacular "mababaw," x x x.³¹

Accused-appellant expectedly impugns the credibility of Anastacia and her testimony. He particularly puts in controversy her testimony with respect to (1) the number of times Domingo was stabbed, which appeared to be inconsistent with the testimony of Dr. Laroza, who conducted the post-mortem examination on Domingo's body, and (2) her claim that it was Brgy. Chair Ruben who brought her to the hospital which seemed to be inconsistent with the latter's testimony that his participation was limited to reporting the stabbing incident to the police officers.

True, there appears to be some inconsistencies between the testimony of Anastacia on one hand and the testimonies of Dr. Laroza and Brgy. Chair Ruben on the other. Anastacia testified that Domingo was stabbed only once by accused-appellant while Dr. Laroza testified that Domingo sustained five (5) stab wounds.³² She also testified that it was Brgy. Chairman Ruben who brought her to the hospital while the latter testified that his participation in the case was limited to reporting the incident to the police officers.³³ These inconsistencies, however, do not pertain to substantial details so as to discredit Anastacia and her testimony and thus arouse doubt as to the culpability of accused-appellant to the crimes charged.

The inconsistencies here merely refer to minor details which do not diminish the probative value of the testimony at issue.³⁴ The fact remains that Anastacia saw accused-appellant with her own two eyes in the act of

²⁹ Id.

³⁰ TSN, November 25, 2008, p. 3.

³¹ Id. at 6.

³² TSN, September 30, 2008, p. 7; TSN, February 15, 2011, p. 4.

³³ Id. at 9; TSN, May 12, 2009, p. 7.

³⁴ See *People v. Mat-an*, G.R. No. 215720, February 21, 2018, 856 SCRA 282.

stabbing her son Domingo and was herself stabbed by him thereafter.

More, Anastacia cannot be expected to testify that she saw accused-appellant stab Domingo five (5) times when what she actually only witnessed was accused-appellant's act of delivering the last fatal stab to Domingo and the attack to herself. The Court likewise notes that Brgy. Chair Ruben's claim that his participation was limited to reporting the incident to the police officers did not entirely negate the possibility that he indeed brought victim Anastacia to the hospital. In fact, he testified that he was fetched by a Tanod named Bienvenido who informed him about the stabbing incident in the house of Anastacia. When he arrived at Anastacia's house, he saw the body of deceased Domingo and was able to talk to Anastacia.³⁵ Certainly, his participation in the case was not actually strictly limited to reporting the incident to the police officers. Thus, both the trial court and the CA did not err in giving full faith and credence to Anastacia's testimony.

Notably, accused-appellant himself did not accuse Anastacia of any ill motive to falsely implicate him in the serious crimes of Murder and Frustrated Murder (as charged).

Verily, no cogent reason exists which would justify the reversal of the trial court's assessment on the credibility of Anastacia and her testimony, as affirmed by the CA. It is well settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of accused-appellant. Minor inconsistencies therein cannot destroy her credibility.³⁶

The CA therefore did not err in affirming accused-appellant's conviction for both Slight Physical Injuries and Murder.

Murder is defined and penalized under Article 248 of the Revised Penal Code (RPC), as amended, *viz.*:

ART. 248. *Murder.* Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. **With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity[.]** (Emphasis ours)

³⁵ TSN, May 12, 2009, p. 4.

³⁶ See *People v. Mat-an*, *supra* note 34.

The elements of murder are: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (4) that the killing is not parricide or infanticide.³⁷

Here, all these elements were present. *First*, Domingo was killed, *Second*, it was established that accused-appellant killed him. *Third*, the killing was attended by treachery, a qualifying circumstance. *Lastly*, the killing is not parricide or infanticide.

The killing of Domingo was qualified by treachery. There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof that tend directly and especially to ensure its execution, without risk to himself arising from the defense that the offended party might make.³⁸

We have ruled that treachery is present when an assailant takes advantage of a situation in which the victim is asleep, unaware of the evil design, or has just awakened.³⁹ In the instant case, it was established by the prosecution that Domingo was sleeping, unaware of accused-appellant's evil design, when he was stabbed by him causing his death. Clearly, Domingo was not in a position to defend himself from accused-appellant's attack. The killing being qualified by treachery, accused-appellant is thus guilty of Murder.

On the other hand, with respect to the attack and injury suffered by Anastacia, accused-appellant can only be held liable for Slight Physical Injuries and not Frustrated Murder. The crime of Frustrated Murder requires that accused-appellant intended to kill Anastacia. The prosecution, however, failed to establish this as a fact. Too, Dr. Palmero, the physician who examined Anastacia, testified that she only suffered a non-fatal wound. Without the element of intent to kill, accused-appellant can only be convicted for physical injury. And considering that Anastacia's wound was only superficial or "*mababaw*," the CA correctly upheld accused-appellant's conviction for Slight Physical Injuries.⁴⁰

In an attempt to exculpate himself from both charges, accused-appellant claims that he was in Bulacan with his family on July 14, 2007 when the stabbing incident happened in the house of Anastacia in Matipunso, San Antonio, Quezon. This was corroborated by his wife Thelma who testified that he was then with her in their house in Bulacan.

³⁷ *People v. Gaborne*, 791 Phil. 581, 592 (2016).

³⁸ *People v. Dearo*, 719 Phil. 324, 334 (2013).

³⁹ *Id.*

⁴⁰ See *People v. Mat-an*, *supra* note 34.

The Court rejects the defense of denial and alibi proffered by accused-appellant.

Alibi can easily be fabricated; thus it is viewed with suspicion and received with caution. For alibi to prosper, accused-appellant must prove not only that he was at some other place when the crime was committed but that it was physically impossible for him to be at the *locus criminis* at the time of its commission.⁴¹

Here, accused-appellant failed to establish that it was physically impossible for him to be in the house of Anastacia at the time of the stabbing incident. According to him, it takes a six (6)-hour commute to get to Brgy. Matipunso, San Antonio, Quezon, where the stabbing incident happened, from Bulacan, where he was allegedly present during the incident.

In *People v. San Agustin*,⁴² this Court held that a five (5)-hour travel time would not make it physically impossible for appellant to be present in Laguna from Cavite and thereat rape his victim. In the instant case, *We* likewise find that a six (6)-hour commute or travel time from Bulacan to Brgy. Matipunso, San Antonio, Quezon, did not make it physically impossible for herein accused-appellant to be present in the house of Anastacia in Brgy. Matipunso, San Antonio, Quezon at 8:00 in the evening of July 14, 2007 if he left Bulacan on or before 2:00 in the afternoon of the same day.

More, *We* have consistently assigned less probative weight to a defense of *alibi* when it is corroborated by relatives, as in this case where accused-appellant's alibi was corroborated only by his wife Thelma. *We* have established in jurisprudence that, in order for corroboration to be credible, the same must be offered preferably by disinterested witnesses.⁴⁴ Being accused-appellant's wife, Thelma cannot be considered as a disinterested witness.

Accordingly, as between Anastacia's categorical and positive identification of accused-appellant as the person who stabbed her and her son Domingo on one hand and accused-appellant's inherently weak denial and alibi on the other, the former prevails.

The Penalty and Damages

In Criminal Case No. 2007-852, there being no aggravating or

⁴¹ *People v. Corpuz*, 714 Phil. 337, 346 (2013).

⁴² 403 Phil. 93 (2001).

⁴⁴ *People v. Pulgo*, 813 Phil. 205, 219 (2017).

mitigating circumstance present, the penalty shall be imposed in its medium period or twenty (20) days of *arresto menor*, following Article 266 of the RPC. The Court likewise finds it proper to award moral damages to Anastacia in the amount of ₱5,000.00.⁴⁶ Since only Slight Physical Injury was committed in Criminal Case No. 2007-852 and no proof of medical expenses was presented during trial, the CA correctly deleted the award of temperate damages.⁴⁷

In Criminal Case No. 2007-853, other than the circumstance of treachery which already qualified the crime to Murder, no other modifying circumstance is present whether aggravating or mitigating. Thus, the penalty of *reclusion perpetua* is imposed in accordance with Article 248 of the RPC, as amended, in relation to Article 63(2) of the RPC.⁴⁸ The Court finds the awards of civil indemnity in the amount of ₱75,000.00, moral damages in the amount of ₱75,000.00, and exemplary damages in the amount of ₱75,000.00 to the heirs of Domingo proper, in line with recent jurisprudence.⁴⁹

Prevailing jurisprudence also dictates that in Homicide or Murder cases, when no evidence of burial or funeral expenses is presented in court, as in this case, an award of ₱50,000.00 as temperate damages in lieu of actual damages shall be awarded. Thus, *We* increase the award of temperate damages to the heirs of Domingo to ₱50,000.00.⁵⁰

WHEREFORE, the Appeal is **DISMISSED**. The Decision dated September 8, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07880 is **AFFIRMED with MODIFICATIONS**. The Court finds accused-appellant Alberto Perez y Esabidra **GUILTY** beyond reasonable doubt of:

1. **SLIGHT PHYSICAL INJURY** in Criminal Case No. 2007-852 and is sentenced to suffer the straight penalty of twenty (20) days of *arresto menor*. Accused-appellant is ordered to pay Anastacia Landicho (a) moral damages in the amount of ₱5,000.00, and (b) costs of suit.
2. **MURDER** in Criminal Case No. 2007-853 and is sentenced to suffer the penalty of *reclusion perpetua*. Accused-appellant is ordered to pay the heirs of Domingo Landicho (a) civil indemnity in the amount of ₱75,000.00, (b) moral damages in the amount of ₱75,000.00, (c) exemplary damages in the

⁴⁶ See *People v. Mat-an*, supra note 34.

⁴⁷ See *People v. Lagman*, 685 Phil. 733, 750 (2012).

⁴⁸ See *People v. Mat-an*, supra note 34.

⁴⁹ See *People v. Jugueta*, 783 Phil. 806 (2016).

⁵⁰ *Id.*


amount of ₱75,000.00, (d) temperate damages in the amount of ₱50,000.00, and (e) costs of suit.

All monetary awards for damages shall earn interest at the legal rate of six percent (6%) *per annum* from date of finality of this Decision until fully paid.


SO ORDERED.


EDGARDO L. DELOS SANTOS
Associate Justice


WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice




HENRI JEAN PAUL B. INTING
Associate Justice



RICARDO R. ROSARIO
Associate Justice

ATTESTATION

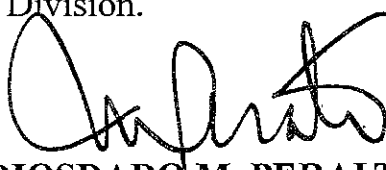
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third 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.



DIOSDADO M. PERALTA
Chief Justice