



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

DANIEL G. IMPERIAL,
Petitioner,

G.R. No. 230519

Present:

- versus -

GESMUNDO, C.J.,
Chairperson,
 CAGUIOA,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated
JUN 30 2021

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DECISION

GAERLAN, J.:

Before this Court is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court seeking to annul and set aside the Decision² of the Court of Appeals (CA) in CA-G.R. CR No. 36434 dated June 14, 2016, and its Resolution³ dated March 8, 2017, denying the motion for reconsideration thereof. The assailed Decision affirmed the April 26, 2013 Decision⁴ of the Regional Trial Court (RTC) of Muntinlupa City, Branch 205, finding the petitioner Daniel G. Imperial guilty beyond reasonable doubt of the crime of qualified theft as defined and penalized by Article 310, in relation to Article 308, of the Revised Penal Code (RPC).

Petitioner Daniel G. Imperial (petitioner) was charged with the crime of qualified theft, by virtue of an Information dated November 28, 2008, the accusatory portion of which reads:

That on or about the 25th day of April 2008, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable

¹ *Rollo*, pp. 14-27.

² *Id.* at 32-43; penned by Associate Justice Noel G. Tijam (a former Member of this Court) and concurred in by Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr.

³ *Id.* at 44-46.

⁴ *Id.* at 56-93.

Court, the above-named accused, being then the Head of the Maintenance Department of Now Trading Concept Multi-Purpose Cooperative (NTC-MPC) herein represented by Melody Lorilla and as such charged for possession and custody with the materials used for maintenance work, hence, enjoyed the trust and confidence reposed upon him by the complainant, with intent to gain, with grave abuse of such trust and confidence and without the knowledge and consent of the complainant, did then and there willfully, unlawfully and feloniously take, steal and carry away complainant's One (1) roll of Royal Cord No. 14/3, 75 meters in length, worth Five Thousand Seven Hundred Pesos (P5,700.00), to the damage and prejudice of Now Trading Concept Multi-Purpose Cooperative (NTC-MPC) in the aforementioned amount of P5,700.00.

CONTRARY TO LAW.⁵

The petitioner was arraigned on January 20, 2009, and entered a plea of not guilty to the crime charged. After pre-trial, the case proceeded with the trial on the merits.⁶

Version of the Prosecution

The prosecution presented as its witnesses the following employees of Now Trading Concept Multi-Purpose Cooperative (NTC-MPC): private complainant and Head of Operations and Purchase Department Melody A. Lorilla (Lorilla), Maintenance Staff Raymond Bantillo (Bantillo), General Cashier Geruel Mortilla (Mortilla), and Security Guards Alejandro Albeza (Albeza) and Abdelgamar Uddin (Uddin).

Their testimonies tend to establish that the petitioner worked as Head of the Maintenance Department of NTC-MPC since January 15, 2008. On April 21, 2008, petitioner requested Lorilla to make a purchase order of one (1) roll Royal Cord size 14/3 for the repair of a wash tub and dryer in the company's warehouse.⁷ As requested, Lorilla accomplished a purchase order on April 25, 2008, which she then handed to Bantillo who, in turn, purchased the same from the company supplier, New 366 Merchandising. Bantillo then brought the wire he purchased directly to the company's warehouse.⁸

Per Albeza's logbook entry on April 25, 2008, at 9:35 a.m., Bantillo brought in "*one roll electric conductor (wire) Royal Cord No. 14/3. From. New 366 Merch.*"⁹ Bantillo handed the cord to the petitioner, who then instructed the former to place it inside the Mazda pick-up. On the same day,

⁵ Records, p. 1.

⁶ *Rollo*, p. 33.

⁷ *Id.* at 85.

⁸ *Id.* at 85, 89,

⁹ *Id.* at 89.

at around 9:42 a.m., petitioner brought the wire out of the warehouse based on another entry in the same logbook: “*Check out Kuya Dan bring out one roll royal cord number 14/3.*” Petitioner went out of the RMT Industrial complex and headed towards the National Road. Minutes later, petitioner went back to the warehouse; this prompted Albeza to text his fellow security guard, Uddin, instructing him to check if the Mazda pick-up service vehicle driven by the petitioner still contained the Royal Cord No. 14/3. Uddin then peeked through the open window of the Mazda, and not seeing anything, he replied “negative.”¹⁰

On April 26, 2008, Albeza approached Lorilla and asked her if she made an order of Royal Cord No. 14/3. Lorilla answered in the affirmative. Albeza then reported that the cord ordered is missing. Lorilla went to the wash tub and verified whether the missing cord was attached to it, but discovered that old wires were used to repair the machine.¹¹

The following working day, or on April 28, 2009, Uddin reported that petitioner brought to their warehouse, through Orlando Ilada, a Royal Cord size 16/2. Lorilla then informed her boss, Atty. Clifford Lim (Atty. Lim) of the incident. With this, Atty. Lim formed an investigating committee and ordered Albeza and Uddin to blotter the incident to the Muntinlupa City Police station.¹² On or about June 7, 2008, the petitioner was suspended and, subsequently, dismissed from work.¹³ As petitioner failed to heed the company’s subsequent demands pertaining to his “unpaid receivables and cash advances,” Atty. Lim then instructed Lorilla, pursuant to a special power of attorney, to file the instant complaint for NTC-MPC.¹⁴

Version of the Defense

The petitioner testified in his defense. Likewise, the defense presented as witness the petitioner’s brother and co-worker, Luis Imperial, who corroborated the petitioner’s testimony.¹⁵

The petitioner denied the charges against him. While he admits having requested the purchase of a Royal Cord size 14/3 for the repair of a wash tub and dryer on April 21, 2008, petitioner nonetheless claimed that the wires did not come until about four days after he had made the request. But, as the company was insisting on the immediate repair of the wash tub and dryer, on

¹⁰ Id. at 89-90.

¹¹ Id. at 88.

¹² Id. at 88-89.

¹³ Id. at 85.

¹⁴ Id. at 85, 88-89.

¹⁵ Id. at 91-92.

April 24, 2008, the petitioner instructed Nestor Serrano and Luis Imperial to look for other wires to be used.¹⁶

On April 25, 2008, petitioner instructed Bantillo to go to Lorilla and follow up his request. On the same day, Bantillo returned with the wires. Consistent with the practice of the maintenance department, petitioner directed him to load the wires on the Mazda pick-up vehicle so as to make the same readily available for urgent repairs. At that time, the vehicle was being repaired in warehouse 2 by Jose Pajarillo. Petitioner submitted that he did not replace the temporary wires installed despite the arrival of new ones so as not to disrupt the running of the wash tub and dryer which was imperative to the operation of the company at that time.¹⁷

On April 28, 2008, petitioner met Atty. Lim who then inquired about the missing Royal Cord No. 14/3 wire. Petitioner went out, boarded the Mazda pick-up and noticed that there were wires behind the driver's seat. Petitioner asked Orlando Ofilada (Ofilada) to unload the same from the vehicle. Then, petitioner went to the office of Atty. Lim and related that he found the missing wires, to which the latter responded "okay." Later that day, petitioner was confronted by Lorilla regarding the missing wires. Petitioner directed her to the stockroom, where they proceeded to retrieve the wires. The two parted ways thereafter. Lorilla went to the NTC-MPC Main office while the petitioner returned to the maintenance office.¹⁸

On May 2, 2008, petitioner received a letter of suspension from Atty. Lim, relating to an accusation that he had stolen a Royal Cord size 14/3. After the committee hearing held on June 5, 2008, the petitioner received his termination letter on July 27, 2008.¹⁹

The Trial Court's Ruling

On April 26, 2013, the RTC rendered its Decision,²⁰ the dispositive portion of which reads:

WHEREFORE, on the basis of all the foregoing, the Court hereby finds the accused DANIEL G. IMPERIAL, GUILTY beyond reasonable doubt for the crime of Qualified Theft as charged, and hereby sentences him to suffer the indeterminate penalty of imprisonment of four (4) years, two (2) months and one (1) day of prision correccional as minimum, to nine (9) years, four (4) months and one (1) day of prision mayor as maximum,

¹⁶ Id. at 91.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 56-93; rendered by Judge Amelia A. Fabros.

and to indemnify the complainant company of Five Thousand Seven Hundred Pesos (Php 5,700.00) as actual damages.

With costs against the accused.

SO ORDERED.²¹

In so ruling, the RTC held that the prosecution established the elements of the crime charged. The RTC ruled that the logbook entries proved that it was the petitioner who requested purchase of the Royal Cord 14/3 wires, for which he was responsible as head of the maintenance department. Further, the RTC noted that what the petitioner returned to the warehouse was a Royal Cord wire 16/2, which is different from that purchased by the company and as such, this cannot absolve him from liability. Finally, the RTC found that the petitioner's intent to gain is evident from his actuations.²²

The CA's Ruling

Aggrieved, the petitioner appealed to the CA. On June 14, 2016, the CA rendered its Decision²³ affirming the RTC's decision, as follows:

WHEREFORE, the *Appeal* is DISMISSED. The April 26, 2013 Decision of the Regional Trial Court Branch 205 of Muntinlupa City, convicting Accused-Appellant for the crime of *Qualified Theft*, under *Article 310*, in relation to *Article 308* of the *Revised Penal Code*, is AFFIRMED with MODIFICATION, insofar as the penalty of imprisonment is concerned, in that the accused is sentenced to an indeterminate penalty of 4 years, 2 months, and 1 day of prison correccional, as minimum, to 9 years, 4 months and 1 day of prison mayor, as maximum.

SO ORDERED.²⁴ (Citation omitted)

In essence, the CA affirmed the factual findings and conclusions of law by the RTC. The CA ruled that the inconsistencies cited by the petitioner do not affect the veracity and weight of the testimony of the prosecution's witnesses inasmuch as all the elements of the crime of qualified theft have been proven. The CA found that the material possession of the missing Royal Cord size 14/3 was with the petitioner; that he unlawfully took the same; that intent to gain is presumed from such unlawful taking; and that in the course thereof petitioner committed grave abuse of

²¹ Id. at 93.

²² Id.

²³ Id. at 23-43.

²⁴ Id. at 42-43.

confidence reposed upon him by NTC-MPC as head of its Maintenance department. Nonetheless, the CA modified the penalty finding error in the RTC's computation.²⁵

The petitioner filed a motion for reconsideration, which the CA denied in its Resolution²⁶ dated March 8, 2017.

Hence, this petition for review on *certiorari*, whereby the petitioner submits that the CA erred in affirming that the prosecution established his guilt beyond reasonable doubt for the crime of qualified theft.

In its Comment,²⁷ the respondent argues that the instant petition seeks the review of factual matters that are beyond the province of a petition for review. The respondent posits that contrary to petitioner's allegation, there is no grave abuse of discretion in this case to warrant the reversal of the common factual findings of the RTC and the CA. Finally, the respondent avers that the absence of direct evidence is not an obstacle for conviction as circumstantial evidence obtains pointing to the petitioner's guilt of the crime charged.

In his Reply,²⁸ the petitioner alleges that the CA's failure to consider the testimony of defense witness Luis Imperial is tantamount to grave abuse of discretion. The petitioner reiterates that had the CA considered the same, it would have concluded that the commission of the offense is impossible as the Mazda pick-up was under repair, as such, it was impossible to bring out the Royal Cord No. 14/3 wire out of the company premises. Finally, the petitioner claims that there is no basis for his conviction as the prosecution failed to prove that the missing Royal Cord 14/3 wire was handed over to him and that he was the last person in possession thereof.

Briefly, the Court must then resolve in this petition for review whether the CA committed a reversible error in affirming the RTC's decision which convicted the petitioner of the crime of qualified theft.

The Court's Ruling

The Court rules in the **affirmative**.

²⁵ Id. at 38-41.

²⁶ Id. at 44-46.

²⁷ Id. at 145-171.

²⁸ Id. at 178-183.

The petition invites the Court to review the truth or falsity of the parties' allegations, and re-evaluate the probative value of the evidence presented and ultimately determine whether the lower court correctly appreciated the same. Plainly, these are questions of fact which are beyond the province of a petition for review.²⁹ This limitation in the scope of review is not an absolute rule, it admits of exceptions, established by jurisprudence, viz.:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.³⁰ (Citations omitted)

Of these, the petitioner asks the Court to review the facts of the case on the ground that the CA committed grave abuse of discretion in rendering the judgment of conviction on the basis of the testimonies of the witnesses of the prosecution.³¹

Grave abuse of discretion is a concept well defined by jurisprudence. It connotes a capricious and whimsical exercise of judgment which amounts to lack of jurisdiction. To warrant the nullification of the assailed issuance, the abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law. There is grave abuse of discretion in cases where there are palpable errors of jurisdiction; a violation of the Constitution, law, or jurisprudence; or when there has been a gross misapprehension of facts.³²

After a careful review of the records of the case at bar, the Court is convinced that the CA committed grave abuse of discretion, as its factual

²⁹ *Pascual v. Burgos, et al.*, 776 Phil. 167, 188-189 (2016).

³⁰ *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232. (1990).

³¹ *Rollo*, p. 21.

³² *Pascual v. Burgos*, supra note 29 at 190-191, citing *United Coconut Planters Bank v. Looyuko*, 560 Phil. 581, 591-592 (2007).

findings are not supported by the required quantum of evidence that is sufficient to sustain a judgment of conviction.

The crime of qualified theft is defined and penalized under Article 310 in relation to Articles 308 and 309 of the RPC. The crime is deemed consummated when the following elements are present: (1) taking of personal property; (2) that the said property belongs to another; (3) that the taking is done with intent to gain; (4) absence of the owner's consent; (5) that it is accomplished without the use of violence, intimidation, nor of force upon things; and (6) that it be done with grave abuse of confidence.³³

Herein, the prosecution failed to establish the *corpus delicti* of the crime of theft. *Corpus delicti*, in its legal sense, refers to the fact of the commission of the crime charged or to the body or substance of the crime. In the crime of theft, *corpus delicti* has two elements: 1) that personal property is lost by its owner, and 2) that it was lost through felonious taking.³⁴

In this case, the Court notes that the evidence for the prosecution is largely circumstantial. Thus, it behooves upon the court to determine the sufficiency of the circumstances and whether the same "tend by inference to establish the fact" constituting the elements of the crime charged.³⁵

Admittedly, direct evidence is not imperative for conviction to ensue. The guilt of the accused may be established by circumstantial evidence,³⁶ provided: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce conviction beyond reasonable doubt.³⁷ In addition, under the amendment introduced by A.M. No. 19-08-15-SC, "inferences cannot be based on other inferences." Conviction must be based on strong, clear, and compelling evidence.³⁸ In this case, the prosecution failed to meet these standards.

To establish the element of taking, actual or constructive possession of personal property must be proven- *first*, by its owner or lawful possessor and *second*, the subsequent unlawful acquisition of thereof by the accused. In the case of *Roque v. People*,³⁹ the Court citing an earlier case, noted that the crime of theft as defined by the RPC lays great stress on the first element, "which is the taking away, that is, getting possession, laying hold

³³ *People v. Mejares*, 823 Phil. 459, 467-468 (2018).

³⁴ *Zapanta v. People*, 707 Phil. 23, 32 (2013).

³⁵ *Zabala v. People*, 752 Phil. 59, 67 (2015)

³⁶ *Id.*

³⁷ 2019 RULE ON EVIDENCE, Rule 133, Section 4.

³⁸ *People v. Austria*, 273 Phil. 65, 75 (1991).

³⁹ 486 Phil. 288 (2004).

of the thing...without the consent of the owner.”⁴⁰ Thus, when the delivery of a thing did not have the effect of transferring possession, it is regarded that possession remains with the owner and the act of disposing such thing without the latter’s consent constitutes the crime of theft.⁴¹ Conversely, when delivery to another was made with the intention of transferring ownership or possession, the subsequent disposition by the transferee does not constitute theft. “The crime of theft implies an invasion of possession; therefore, there can be no theft when the owner voluntarily parted with the possession of the thing. Indeed, a taking which is done with the consent or acquiescence of the owner of the property is not felonious.”⁴²

The main witness for the prosecution, Lorilla affirmed that the purchase order for the missing Royal Cord was given to Bantillo and the item subsequently purchased was brought inside the NTC-MPC premises, not by the petitioner but by Bantillo. Petitioner did not acquire actual possession of the same. The parties admitted and the petitioner affirmed that he directed Bantillo to place the Royal Cord in the Mazda pick-up, the company service vehicle, which the latter accomplished. At the point relevant to this controversy, records established that this vehicle was not used nor assigned only to the petitioner.⁴³ In short, petitioner did not have exclusive access to or control over the vehicle, as to render any item inside it within his constructive possession. Under these circumstances, the Court cannot exclude the possibility that some other person may have committed the alleged theft against the company.⁴⁴ The rule in circumstantial evidence cases is that to produce conviction beyond reasonable doubt, the evidence offered by the prosecution must exclude the possibility that some other person committed the crime.⁴⁵ Failure to do so is tantamount to reasonable doubt that warrants acquittal. In this case, the inference that the missing Royal Cord was taken by the petitioner was based on the fact that he gained control and possession over the same, which was not proven. Clearly, the *corpus delicti* in the crime of theft was not proven and the petitioner must be acquitted.

The RTC and the CA blindly relied on the testimonies of the prosecution witnesses that Bantillo placed the missing Royal Cord on the passenger seat of the Mazda pick-up and that, thereafter, the petitioner left the company premises on board the pick-up and later returned without the same Royal Cord. Both courts failed to consider that the prosecution also averred that per the security guard’s logbook, the petitioner did not

⁴⁰ Id. at 308.

⁴¹ Id. at 310.

⁴² *Medina v. People*, 760 Phil. 729, 737 (2015).

⁴³ *Rollo* p. 7a3; TSN of Hearing dated November 24, 2009, records, pp. 714; TSN of Hearing dated June 22, 2012, records, pp. 1110-1111.

⁴⁴ See *Cruz, et al. v. People*, 821 Phil. 372, 386-387 (2017).

⁴⁵ *Zabala v. People*, supra note 36 at 68.

personally, but through one Ofilada, brought in one Royal Cord with a different specification than that purchased. Verily, other than the testimony of Bantillo, there is no other evidence showing that custody and responsibility over the missing cord were transferred to and acknowledged by the petitioner. At no point, therefore, did the petitioner had actual possession and had exclusive control over the missing royal cord immediately prior to its loss. As such, even with the petitioner's admissions of his instructions to Bantillo and Ofilada, the Court cannot discount the fact that some other person may have committed the theft.

The fact that petitioner is the head of NTC-MPC's maintenance department does not automatically mean constructive possession without proof of actual transfer of accountability or possession over the missing royal cord. If at all, the petitioner's position charges him of administrative, not criminal liability.

Verily, without proof that petitioner acquired possession of the missing royal cord at any time, there is no taking. There can be no occasion in which the petitioner can appropriate for himself the subject Royal Cord and for the crime of theft to occur.

It bears to add that when evidence of theft is circumstantial as in this case, proof as to motive, that is, intent to gain, is essential and cannot be merely inferred.⁴⁶ "*Animus lucrandi* or intent to gain is an internal act which can be established through the overt acts of the offender."⁴⁷ In the case at bar, the prosecution failed or did not even attempt to offer proof of such motive. On the contrary, the petitioner's submissions which were unrebutted by the respondent belie the existence of motive to commit the crime of qualified theft, i.e., the measly amount of the subject royal cord in comparison to the petitioner's salary and his three (3) untarnished years in service prior to the date of the alleged incident.⁴⁸ Moreover, petitioner's conduct after the incident is revealing. When confronted regarding the missing cord, Lorilla narrated that the petitioner pointed her to the stock room and showed her a Royal Cord of different specification. Lorilla, however, did not react and, instead, immediately returned to her office. Had petitioner indeed took the cord, he would not have taken lengths in leading Lorilla to the stockroom; in the same way, if petitioner was indeed responsible for the missing cord, then why didn't Lorilla corrected the petitioner that what he had shown was not what they were looking for, so that the latter could rectify the situation? Questions likewise abound as to why the petitioner would take a royal cord 14/3 and then supposedly replace

⁴⁶ *Medina v. People*, supra note 40 at 735.

⁴⁷ *People v. Reyes*, 447 Phil. 668, 674 (2003).

⁴⁸ *Rollo*, pp. 24-25.

it with a new royal cord 16/2.⁴⁹ Why would a person, who intends to make a profit, replace an item he has taken?

In view of all the foregoing, the Court has reasonable doubt with respect to the guilt of the petitioner for qualified theft.

In closing, it must be emphasized that the cornerstone of all criminal prosecutions is the constitutional guarantee of presumption of innocence. This places the burden upon the prosecution to prove the guilt of the accused beyond reasonable doubt. In so doing, it can only rely upon the strength of its evidence without regard to the weakness of the defense. Hence, when the case for the prosecution rests upon circumstantial evidence, to produce conviction, the same must be adequately established and corroborated.⁵⁰ Thus, to warrant a conviction:

[I]t is not sufficient to establish a probability, though a strong one arising from the doctrine of chances, that the fact charged is more likely to be true than the contrary; but the evidence must establish the truth of the fact to a reasonable and moral certainty; a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it.⁵¹

No less than the highest quantum of proof is required in criminal cases, as the life and liberty of a person are at stake. In these cases, the overriding consideration is not whether the court doubts the innocence of the accused, but whether it entertains a reasonable doubt as to their guilt.⁵² In so evaluating, courts must consider every circumstance in favor of the accused's innocence.⁵³ The accused bears no burden to prove his or her innocence; thus, the weakness of the defense is inconsequential. When the prosecution fails to establish by proof beyond reasonable doubt the commission of the crime charged and in identifying the accused as the one responsible therefor, as in this case, acquittal must follow.⁵⁴

WHEREFORE, in consideration of the foregoing disquisitions, the petition is **GRANTED**. The Decision dated June 14, 2016 and the Resolution dated March 8, 2017 of the Court of Appeals in CA-G.R. CR No. 36434 are hereby **REVERSED AND SET ASIDE**. Petitioner Daniel G. Imperial is **ACQUITTED** of the crime of qualified theft on the ground of reasonable doubt.

⁴⁹ TSN of Hearing dated February 16, 2020, records, p. 860.

⁵⁰ *Macayan, Jr. v. People*, 756 Phil. 202, 228 (2015).

⁵¹ *People v. Claro*, 808 Phil. 455, 464-465 (2017).

⁵² *Macayan, Jr. v. People*, supra.


⁵³ *People v. Claro*, supra.

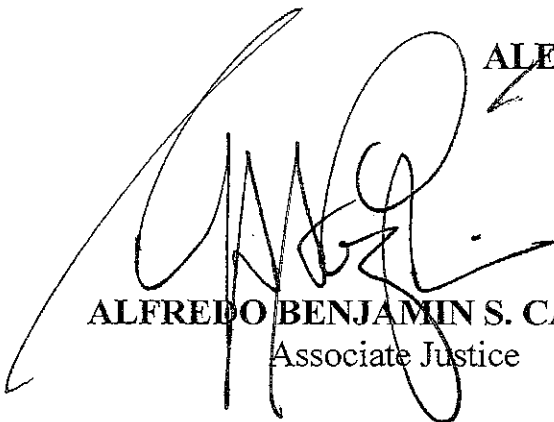
⁵⁴ Id.

SO ORDERED.



SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ROSMARI D. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
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.


ALEXANDER G. GESMUNDO
Chief Justice