Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 215742**
	Present:
- versus -	CARPIO, *J.*, *Chairperson*, PERALTA, MENDOZA, LEONEN, and MARTIRES, *JJ.*
JOSE BELMAR UMAPAS y CRISOSTOMO, Accused-Appellant.	**Promulgated:** 22 MAR 2017

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D E C I S I O N

PERALTA, *J.*:

Before this Court is an appeal from the Decision[1] dated February 26, 2014 of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 05424. The CA affirmed with modification the Decision[2] dated October 10, 2011 of the Regional Trial Court (*RTC*) of Olongapo City in Criminal Case No. 611-98 which convicted appellant Jose Belmar Umapas y Crisostomo of parricide.

The facts are as follows:

In the evening of November 30, 1998, around 11 o'clock, appellant mauled his wife Gemma Gulang Umapas (*Gemma*) and, with the use of alcohol intended for a coleman or lantern, doused her with it and set her

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[1] Penned by Associate Justice Socorro B. Inting, with Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez, concurring; *rollo*, pp. 2-10.

[2] CA *rollo*, pp. 36-41.

ablaze at their home located at Lower Kalakhan, Olongapo City. Gemma was brought to James L. Gordon Memorial Hospital for treatment by a certain Rodrigo Dacanay who informed the attending hospital personnel, which included Dr. Arnildo C. Tamayo (*Dr. Tamayo*), that it was appellant who set her on fire.[3] Gemma was found to have suffered the following injuries: contusions on the left cheek and on the lower lip, lacerations on right parietal area and on the left temporal area, and thermal burns over 57% of her body.[4] Due to the severity of the injuries, the victim died on December 5, 1998 from multiple organ failure secondary to thermal burns.[5]

The police authorities were unable to talk to Gemma immediately after the incident as they were prevented from doing so by the attending physician at the hospital's emergency room. But the following day, December 1, 1998, around 1:30 p.m., SPO1 Anthony Garcia (*SPO1 Garcia*) was able to interview the victim at her hospital bed.[6] Though she spoke slowly with eyes closed, Gemma was said to be coherent and agreed to give a statement about the incident which included her identifying her husband, Umapas, as her assailant.[7] Gemma was asked if she felt that she was dying, and she said "yes."[8] SPO1 Garcia reduced her statement in writing and the same was attested thru the victim's thumbmark. A nurse who was present when the statement of the victim was taken signed as witness.[9]

On January 5, 1999, an Information[10] was filed against appellant Jose Belmar Umapas y Crisostomo for parricide. The Information alleged –

> That on or about the thirtieth (30th) day of November, 1998, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the said accused, Jose Belmar C. Umapas, with intent to kill, taking advantage of his superior strength and with evident premeditation, arming himself with a bottle of alcohol intended for a coleman, did then and there willfully, unlawfully and feloniously inflict multiple injuries upon the different parts of the body of his lawfully wedded wife Gemma G. Umapas by then and there pouring the said alcohol on the different parts of the body of said Gemma G. Umapas, setting her body ablaze, resulting in the immediate death of the latter.
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> CONTRARY TO LAW.

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3 Records, pp. 281-282.
4 *Id.* at 114.
5 *Id.* at 18.
6 *Id.* at 286.
7 *Id.* at 286-287.
8 *Id.* at 290.
9 *Id.* at 289-288.
10 *Id.* at 1-2.

Appellant, for his part, narrated that on November 30, 1998, he was with a certain Rommel fishing in Kalakhan.[11] They left at 5 o'clock in the afternoon and returned at 2 o'clock in the morning the following day to their residence at 195 Lower Kalakhan, Olongapo City.[12] When appellant went home, there was a commotion, but he claimed not to know what the commotion was all about. There were many people in the vicinity of their house. He then learned from the neighbors who were outside their house that his wife was brought to the hospital but was not told why. His four children were in their house and they told him that their mother is in the hospital. When he learned about this, appellant allegedly dressed up to go to the hospital, but he was not able to go because he was stopped by the people from the barangay. He was instead brought to the police precinct and was detained.[13]

Appellant later on learned that he was a suspect in his wife's death. He claimed that he was not able to talk to his wife before she died or visit her at the hospital. He was not even able to visit the wake of his wife because he was already detained. He, however, believed that his wife pointed him as the one who did wrong to her because his wife suspected him of womanizing while he was working at EEI.[14] Appellant averred that they had petty quarrels and his wife was always hot tempered, and she even asked him to choose between work and family. Appellant added that he just chose to ignore her and took a vacation. While he was on vacation from work, he earned a living by fishing. He maintained that he was out fishing, and not in their house, on November 30, 1998 when the incident occurred.[15]

On June 7, 1999, upon arraignment, appellant pleaded not guilty to the crime charged.[16] Trial ensued.

The prosecution presented three (3) witnesses, namely, Dr. Tamayo, SPO1 Garcia and PO1 Rommel Belisario (*PO1 Belisario*). On the other hand, the defense presented the lone testimony of the appellant.

Dr. Tamayo testified that he gave medical treatment to the victim Gemma G. Umapas who suffered contusions and lacerations in her head and second degree burns over fifty-seven percent (57%) of her body. Dr. Tamayo testified that he was informed by one Rodrigo Dacanay that the victim was doused by her husband, appellant, with one hundred percent

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11 *Id.* at 252.
12 *Id.* at 252-253.
13 *Id.* at 253-256.
14 *Id.* at 269.
15 *Id.* at 270.
16 *Id.* at 36.

(100%) alcohol and set on fire.[17] Due to the severity of the burns, he thought that the victim had a slim chance of surviving. He also authenticated the medical certificate he issued on the victim's injuries.[18]

SPO1 Garcia testified that on December 1, 1998, while the victim was being treated at the hospital, he was able to obtain the statement of the victim who identified appellant as the perpetrator of the crime. SPO1 Garcia reduced the victim's statement in writing which, due to the victim's inability to use her hands, was marked merely by her thumb. The statement was witnessed by a hospital nurse.[19]

PO1 Belisario, on the other hand, testified that he was prevented by the hospital personnel from talking to the victim because of the severity of the latter's injuries. At the crime scene, he was told by the victim's daughter, Ginalyn Umapas, that her mother was set ablaze by appellant. He, however, admitted that he failed to reduce Gemma's daughter's statement in writing.[20]

Appellant, testifying on his behalf, denied setting his wife on fire and claimed he was out fishing with a friend he identified as a certain Rommel.[21] He further claimed that his wife probably pointed to him as her assailant to get back at him due to his alleged womanizing.[22] While appellant intended to present another witness, the defense eventually rested its case on July 25, 2011 when no other witness was available to corroborate the appellant's testimony.

On October 10, 2011, the RTC found the appellant guilty of the crime of parricide. The dispositive portion of the decision reads in this wise:

> IN VIEW THEREOF, accused JOSE BELMAR UMAPAS y CRISOSTOMO is found GUILTY beyond reasonable doubt of the crime of PARRICIDE, and sentenced to suffer the imprisonment of reclusion perpetua.
>
> Accused is likewise ordered to pay the heirs of the victim Php50,000.00 as civil indemnity *ex delicto*, Php50,000.00 as moral damages and Php25,000.00 as temperate damages.
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> **SO ORDERED.**[23]

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17 *Id.* at 276.
18 *Id.* at 277-278.
19 *Supra* note 9.
20 Records, pp. 244-245.
21 *Supra* note 15.
22 *Supra* note 14.
23 *Supra* note 2.

The RTC was unconvinced by the defense of alibi and denial interposed by appellant.

Unperturbed, appellant appealed the trial court's decision before the Court of Appeals.

On February 26, 2014, in its disputed Decision,[24] the Court of Appeals denied the appeal and affirmed the appealed decision of the trial court with modification, to wit:

> **WHEREFORE**, the instant appeal is **DENIED**. The assailed Decision dated October 10, 2011 of the Regional Trial Court (RTC) of Olongapo City, Branch 74, in Criminal Case No. 611-98 is hereby **AFFIRMED** with **MODIFICATION** that in addition to the damages awarded by the court *a quo* to the heirs of the victim, the accused-appellant is likewise ordered to pay the amount of ₱30,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of 6% per annum from the date of finality of this Decision until fully paid.
>
> **SO ORDERED**.

Hence, this appeal.

I

WHETHER THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT BASED ON THE ALLEGED DYING STATEMENT OF THE VICTIM GEMMA UMAPAS, ADMITTING THE SAME AS A DYING DECLARATION AND PART OF RES GESTAE

II

WHETHER THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

We affirm appellant's conviction.

Parricide is committed when: (1) a person is killed; (2) the deceased is killed by the accused; (3) the deceased is the father, mother, or child,

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24 *Supra* note 1.

whether legitimate or illegitimate, or a legitimate other ascendants or other descendants, or the legitimate spouse of the accused.[25]

In the instant case, the fact of Gemma's death is incontestable. The fact that Gemma died on December 5, 1998 was established by witnesses from both the prosecution and defense. As additional proof of Gemma's demise, the prosecution presented her Certificate of Death which was admitted by the RTC. [26] Also, the spousal relationship between Gemma and the appellant is undisputed. Appellant already admitted that Gemma was his legitimate wife in the course of the trial of the case.[27] In parricide involving spouses, the best proof of the relationship between the offender and victim is their marriage certificate. However, oral evidence may also be considered in proving the relationship between the two as long as such proof is not contested, as in this case. Thus, having established the fact of death and the spousal relationship between Gemma and the appellant, the remaining element to be proved is whether the deceased is killed by the accused.

Conviction based on dying declaration:

While witnesses in general can only testify to facts derived from their own perception, a report in open court of a dying person's declaration is recognized as an exception to the rule against hearsay if it is "made under the consciousness of an impending death that is the subject of inquiry in the case." It is considered as "evidence of the highest order and is entitled to utmost credence since no person aware of his impending death would make a careless and false accusation."[28]

Four requisites must concur in order that a dying declaration may be admissible, thus: *First*, the declaration must concern the cause and surrounding circumstances of the declarant's death. This refers not only to the facts of the assault itself, but also to matters both before and after the assault having a direct causal connection with it. Statements involving the nature of the declarant's injury or the cause of death; those imparting deliberation and willfulness in the attack, indicating the reason or motive for the killing; justifying or accusing the accused; or indicating the absence of cause for the act are admissible. *Second,* at the time the declaration was made, the declarant must be under the consciousness of an impending death. The rule is that, in order to make a dying declaration admissible, a fixed belief in inevitable and imminent death must be entered by the declarant. It is the belief in impending death and not the rapid succession of death in

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25 *People v. Manuel Macal y Bolasco*, G.R. No. 211062, January 13, 2016.
26 *Rollo*, p. 121.
27 Records, p. 251.
28 *People v. Maglian,* 662 Phil. 338, 346 (2011).

point of fact that renders the dying declaration admissible. It is not necessary that the approaching death be presaged by the personal feelings of the deceased. The test is whether the declarant has abandoned all hopes of survival and looked on death as certainly impending. *Third,* the declarant is competent as a witness. The rule is that where the declarant would not have been a competent witness had he survived, the proffered declarations will not be admissible. Thus, in the absence of evidence showing that the declarant could not have been competent to be a witness had he survived, the presumption must be sustained that he would have been competent. *Fourth*, the declaration must be offered in a criminal case for homicide, murder, or parricide, in which the declarant is the victim.[29]

In the present case, all the abovementioned requisites of a dying declaration were met. Gemma communicated her ante-mortem statement to SPO1 Garcia, identifying Umapas as the person who mauled her, poured gasoline on her, and set her ablaze.[30] Gemma's statements constitute a dying declaration, given that they pertained to the cause and circumstances of her death and taking into consideration the severity of her wounds, it may be reasonably presumed that she uttered the same under the belief that her own death was already imminent.[31] There is ample authority for the view that the declarant's belief in the imminence of her death can be shown by the declarant's own statements or from circumstantial evidence, such as the nature of her wounds, statements made in her presence, or by the opinion of her physician.[32] While more than 12 hours has lapsed from the time of the incident until her declaration, it must be noted that Gemma was in severe pain during the early hours of her admission. Dr. Tamayo even testified that when she saw Gemma in the hospital, she was restless, in pain and incoherent considering that not only was she mauled, but 57% of her body was also burned.[33] She also underwent operation and treatment, and was under medication during the said period.[34] Given the circumstances Gemma was in, even if there was sufficient lapse of time, we could only conclude that at the time of her declaration, she feared that her death was already imminent. While suffering in pain due to thermal burns, she could not have used said time to contrive her identification of Umapas as her assailant. There was, thus, no opportunity for Gemma to deliberate and to fabricate a false statement.

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29 See *People v. Cerilla,* 564 Phil. 230, 242 (2007).

30 Records, p. 117.

31 *Id.* at 120.

32 *People v. Salafranca*, 682 Phil. 470, 482 (2012), citing *M. Graham, Federal Practice and Procedure: Evidence* § 7074, Interim Edition, Vol. 30B, 2000, West Group, St. Paul, Minnesota; citing *Shepard v. United States*, 290 US 96, 100; *Mattox v. United States*, 146 US 140, 151 (sense of impending death may be made to appear "from the nature and extent of the wounds inflicted, being obviously such that he must have felt or known that he could not survive."); *Webb v. Lane*, 922 F.2d 390, 395-396 (7th Cir. 1991); *United States v. Mobley*, 491 F.2d 345 (5th Cir. 1970).

33 Records, pp. 275-276; 279-281.

34 *Id.* at 279.

Moreover, Gemma would have been competent to testify on the subject of the declaration had she survived. There is nothing in the records that show that Gemma rendered involuntary declaration. *Lastly*, the dying declaration was offered in this criminal prosecution for parricide in which Gemma was the victim. It has been held that conviction or guilt may be based mainly on the ante-mortem statements of the deceased.[35] In the face of the positive identification made by deceased Gemma of appellant Umapas, it is clear that Umapas committed the crime.

Conviction based on circumstantial evidence:

Direct evidence of the actual killing is not indispensable for convicting an accused when circumstantial evidence can also sufficiently establish his guilt. The consistent rule has been that circumstantial evidence is adequate for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived have been proven; and (c) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. Thus, conviction based on circumstantial evidence can be upheld provided that the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others, as the guilty person. All these requisites, not to mention the dying declaration of the deceased victim herself, are present in the instant case.[36]

In the instant case, the testimonies of: (1) SPO1 Belisario that during his investigation immediately after the crime was reported, he went to the crime scene and was able to talk to Ginalyn Umapas, the daughter of the victim, wherein the latter told him that Umapas was the one who set her mother ablaze inside their house, (2) Dr. Tamayo that a certain Rodrigo Dacanay told him that Umapas was the one who mauled and set Gemma ablaze, and (3) SPO1 Garcia that he took the statement of Gemma which he reduced into writing after the same was thumbmarked by Gemma and witnessed by the hospital nurse, can be all admitted as circumstantial evidence. While Ginalyn Umapas and Rodrigo Dacanay or the hospital nurse were not presented to prove the truth of such statements, they may be admitted not necessarily to prove the truth thereof, but at least for the purpose of placing on record to establish the fact that those statements or the tenor of such statements, were made. Thus, the testimonies of SPO1 Belisario, Dr. Tamayo, and SPO1 Garcia are in the nature of *an independently relevant statement* where what is relevant is the fact that

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[35] *People v. Serrano*, 58 Phil. 669, 670 (1933).

[36] *People v. Sañez*, 378 Phil. 573, 584 (1999); *People v. Dela Cruz*, G.R. No. 108180, February 8, 1994, 229 SCRA 754; *People v. De Guzman*, G.R. No. 92537, April 25, 1994, 231 SCRA 737; *People v. Retuta*, G.R. No. 95758, August 2, 1994, 234 SCRA 645.

Ginalyn Umapas and Rodrigo Dacanay made such statement, and the truth and falsity thereof is immaterial. In such a case, the statement of the witness is admissible as evidence and the hearsay rule does not apply.

Evidence is hearsay when its probative force depends in whole or in part on the competency and credibility of some persons other than the witness by whom it is sought to produce. However, while the testimony of a witness regarding a statement made by another person given for the purpose of establishing the truth of the fact asserted in the statement is clearly hearsay evidence, it is otherwise if the purpose of placing the statement on the record is merely to establish the fact that the statement, or the tenor of such statement, was made. Regardless of the truth or falsity of a statement, when what is relevant is the fact that such statement has been made, the hearsay rule does not apply and the statement may be shown. As a matter of fact, evidence as to the making of the statement is not secondary but primary, for the statement itself may constitute a fact in issue or is circumstantially relevant as to the existence of such a fact. This is the doctrine of independently relevant statements. Thus, all these requisites to support a conviction based on circumstantial evidence, not to mention the dying declaration of the deceased victim herself, are existing in the instant case.[37]

We, likewise, do not find credence in appellant's defense of alibi. It is axiomatic that alibi is an inherently weak defense, and may only be considered if the following circumstances are shown: (a) he was somewhere else when the crime occurred; and (b) it would be physically impossible for him to be at the *locus criminis* at the time of the alleged crime.[38] The requirements of time and place must be strictly met. It is not enough to prove that appellant was somewhere else when the crime happened. They must also demonstrate by clear and convincing evidence that it was physically impossible for him to have been at the scene of the crime at the approximate time of its commission. Unless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law.[39] A mere denial, like alibi, is inherently a weak defense and constitutes self-serving negative evidence, which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[40] Under the circumstances, there is the possibility that appellant could have been present at the *locus criminis* at the time of the incident

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37 *Espineli v. People*, G.R. No.179535, June 9, 2014, 725 SCRA 365, 378.

38 *People v. Palanas*, G.R. No. 214453, June 17, 2015, 759 SCRA 318, 329; *People v. Agcanas*, G.R. No. 174476, October 11, 2011, 658 SCRA 842, 847.

39 *People v. Sato*, G.R. No. 190863, November 19, 2014, 741 SCRA 132, 140; *People v. Nelmida*, 694 Phil. 529, 564 (2012).

40 *People v. Estrada*, 624 Phil. 211, 217 (2010).

considering that where he claimed to have gone fishing and his residence are both in Kalakhan.[41] Accordingly, appellant's defense of alibi must fall.

The court *a quo* also correctly accorded credence to the testimonies of the prosecution witnesses who are police officers. Appellant failed to present any plausible reason to impute ill motive on the part of the police officers who testified against him. In fact, appellant did not even question the credibility of the prosecution witnesses. When police officers have no motive to testify falsely against the accused, courts are inclined to uphold the presumption of regularity in the performance of their duties.[42] Thus, the testimonies of said police officers deserve full faith and credit.

This Court has consistently conformed to the rule that findings of the trial court on the credibility of witnesses deserve great weight. Factual findings of the trial court and its observation as to the testimonies of the witnesses are accorded great respect, if not conclusive effect, most especially when affirmed by the Court of Appeals, as in this case. The reason for this is that trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and having observed firsthand their demeanor and manner of testifying under grueling examination. In the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.[43]

All told, based on the foregoing, this Court finds the established circumstances, as found by the trial court and the appellate court, to have satisfied the requirement of Section 4, Rule 133 of the Rules of Court.[44] Indeed, the incriminating circumstances, including the ante-mortem statement of Gemma, when taken together, constitute an unbroken chain of events enough to arrive at the conclusion that indeed appellant Umapas was guilty for the killing of his wife Gemma.

PENALTY

Parricide, under Article 246 of the Revised Penal Code, is punishable by two indivisible penalties, *reclusion perpetua* to death. However, with the enactment of Republic Act No. 9346 (RA 9346), the imposition of the penalty of death is prohibited. Likewise, significant is the provision found in

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41 Records, pp. 252-253.

42 *People v. Buenaventura*, 677 Phil. 230, 240 (2011).

43 *People v. Colorada*, G.R. No. 215715, August 31, 2016 (Resolution).

44 Sec. 4. Circumstantial evidence, when sufficient. – Circumstantial evidence is sufficient for conviction if: (a) There is more than one circumstance; (b) The facts from which the inferences are derived are proven; and (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Article 63[45] of the Revised Penal Code stating that in the absence of mitigating and aggravating circumstances in the commission of the crime, the lesser penalty shall be imposed. Applying these to the instant case, there being no aggravating or mitigating circumstance in the commission of the offense, the penalty of *reclusion perpetua* was correctly imposed by the court *a quo*.

In conformity with *People v. Ireneo Jugueta,*[46] the Court deems it proper to modify the amounts of damages awarded to the heirs of Gemma Umapas, as follows: Civil indemnity – from ₱50,000.00 to ₱75,000.00; Moral damages from P50,000.00 to ₱75,000.00; and temperate damages in the amount of ₱50,000.00.[47] We, likewise, award exemplary damages in the amount of ₱75,000.00 on account of relationship, a qualifying circumstance, which was alleged and proved, in the crime of parricide.[48] All with interest at the rate of six percent (6%) *per annum* from the date of finality of judgment until the same are fully paid.

WHEREFORE, the appeal is **DENIED**. The Decision dated February 26, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 05424 finding appellant Jose Belmar Umapas *y* Crisostomo **GUILTY** beyond reasonable doubt of the crime of Parricide, as defined and punished under Article 246 of the Revised Penal Code, is hereby **AFFIRMED WITH MODIFICATION,** in that he is sentenced to suffer the penalty of *reclusion perpetua*. The appellant is also hereby **ORDERED** to **INDEMNIFY** the heirs of the deceased the following amounts of:

a. PhP75,000.00 as civil indemnity;
b. PhP75,000.00 as moral damages;
c. PhP75,000.00 as exemplary damages; and
d. PhP50,000.00 as temperate damages;

All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Judgment until fully paid.

Let a copy of this Decision be furnished the Department of Justice for its information and appropriate action. Costs against the appellant.

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[45] In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof: x x x.
2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied. x x x.

[46] G.R. No. 202124, April 5, 2016.

[47] *People v. Manuel Macal y Bolasco*, G.R. No. 211062, January 13, 2016.

[48] *People v. Paycana, Jr.*, 574 Phil. 780, 791 (2008).

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

SAMUEL R. MARTIRES
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
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice