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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 219170

Present:

PERLAS-BERNABE, J.,  
*Chairperson,*  
A. REYES, JR.,  
HERNANDO,  
INTING,\* and  
ZALAMEDA,\*\* JJ.

- versus -

ABC,<sup>1</sup>  
Accused-Appellant.

Promulgated:

13 NOV 2019

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DECISION

A. REYES, JR., J.:

On appeal is the Decision<sup>2</sup> dated November 28, 2013 (Assailed Decision) of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05457, affirming with modification the Decision<sup>3</sup> dated February 20, 2012 of the Regional Trial Court of Quezon City (RTC) in Criminal Case No. Q-08-152344. The RTC found accused-appellant ABC guilty beyond reasonable doubt of the crime of rape in relation to Republic Act (R.A.) No. 7610 and

<sup>1</sup> At the victim's instance or, if the victim is a minor, that of his or her guardian, the complete name of the accused may be replaced by fictitious initials and his or her personal circumstances blotted out from the decision, resolution, or order if the name and personal circumstances of the accused may tend to establish or compromise the victims' identities; in accordance with Amended Administrative Circular No. 83-2015 (III [1] [c]) dated September 5, 2017.

\* On official leave.

\*\* Designated as additional Member per Special Order No. 2727.

<sup>2</sup> Penned by Associate Justice Jane Aurora C. Lantion and concurred in by then Associate Justice Amy C. Lazaro-Javier (now member of the Court) and Associate Justice Eduardo B. Peralta, Jr.; *rollo*, pp. 2-15.

<sup>3</sup> CA *rollo*, pp. 36-44.

Reyes

sentenced him to suffer the penalty of *reclusion perpetua* and to pay the victim, AAA,<sup>4</sup> the amount of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages.

### Factual Antecedents

On May 30, 2008, ABC was charged before the RTC with the crime of rape in relation to R.A. No. 7610, which was eventually raffled to and heard by Branch 94.<sup>5</sup> The Information reads:

That on or about the 26<sup>th</sup> day of May, 2008, in Quezon City, Philippines, the above-named accused, by means of violence and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge with AAA, 14 years old, a minor, against her will and without her consent, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.<sup>6</sup>

On November 17, 2008, ABC was arraigned and pleaded not guilty to the charge. On February 24, 2009, pre-trial was held. The parties stipulated on and admitted: (1) the jurisdiction of the court over ABC; (2) the identity of ABC; and (3) the minority of private complainant AAA. Trial on the merits ensued.<sup>7</sup>

The prosecution presented the following witnesses: (1) AAA; (2) BBB, mother of AAA; (3) Dr. Editha Martinez (Dr. Martinez); (4) Barangay Public Safety Officer (BPSO) Jesus Estanislao (Estanislao); and (5) BPSO Elmer Sacayan (Sacayan).<sup>8</sup>

The prosecution, through the Office of the Solicitor General, synthesized the testimony of AAA as follows:

On May 26, 2008, about 7:00 in the morning, private complainant AAA was sleeping alone in her room at their house in [REDACTED]. Around 7:45 in the morning, private complainant was awakened when she felt somebody embracing her. Private complainant panicked and called to her mother for help by shouting "Nanay!" "Nanay!" However, before she could rouse anyone to her aid, her assailant (later identified as [ABC]) covered her mouth and held her left breast with his other hand, which effectively halted her efforts to escape.

<sup>4</sup> The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]) and the Amended Administrative Circular No. 83-2015 dated September 5, 2017.

<sup>5</sup> *Rollo*, p. 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

*Meyer*

As [ABC] gripped her body as she laid sideways, private complainant felt [ABC] lowering her shorts and panty. She could not struggle against him in their position because [ABC's] leg pinned down her left thigh. Private complainant felt [ABC] inserting his penis inside her vagina. Private complainant felt pain since it was her first time to experience sexual intercourse. She was sure that it was [ABC] who sexually assaulted her because the room was well-lighted and before he left, he turned his face to her.

After raping private complainant, [ABC] left her crying inside the room. When private complainant's grandmother, CCC arrived back home around noon time, she noticed her granddaughter crying. Upon confronting private complainant, the latter revealed that [ABC], who was their family boarder, raped her. Furious, [CCC], together with private complainant's mother, BBB, and other relatives, proceeded to the Barangay Hall, then to Police Station 8 in Quezon City, before going to Camp Crame. There, private complainant was subjected to a medico-legal examination. Private complainant and her family then proceeded to file the present case against [ABC].<sup>9</sup>

BBB, mother of AAA, then took the witness stand. She said that AAA has been under the care of CCC since AAA was just a child. BBB often visited AAA as she lives nearby. On May 26, 2008, she proceeded to CCC's house at [REDACTED]. Upon arriving at said place, she saw that there was a commotion. Her brother, DDD, was shouting that AAA was raped. They went to the Barangay Hall where AAA narrated the incident. From the Barangay Hall, they proceeded to Police Station 8 where AAA gave her statement. AAA was then made to undergo a medico-legal examination.<sup>10</sup>

Dr. Martinez next testified for the prosecution. She narrated that she subjected AAA to medical examination. She found no lacerations/tears in AAA's hymen but based on the background, she concluded in her Medico-Legal Report that her "medical evaluation cannot exclude sexual abuse."<sup>11</sup>

The prosecution also presented BPSOs Sacayan and Estanislao. BPSO Estanislao testified that on May 26, 2008, at around 10:00 in the morning, he received a telephone call from a female caller who told him that her granddaughter was raped. After getting the details, he and BPSO Sacayan proceeded to the place where the incident allegedly happened. Along the way, they met AAA and BBB. The BPSOs brought AAA and BBB to the Barangay Office. There, AAA disclosed that she was raped by their boarder, ABC. After a few minutes, ABC, accompanied by other barangay officials, arrived at the Barangay Office. It was then when AAA pointed to ABC as the person who

<sup>9</sup> Rollo, p. 4.

<sup>10</sup> Id. at 4-5.

<sup>11</sup> Id. at 5.

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raped her. The BPSO had the incident recorded in the barangay blotter. They brought AAA, BBB, and ABC to Police Station 8.<sup>12</sup>

After the completion of the respective testimonies of the prosecution witnesses, the prosecution formally offered the following documentary exhibits: (1) *Sinumpaang Salaysay* of AAA; (2) *Pinagsamang Salaysay* of BPSOs Sacayan and Estanislao; (3) Initial Medico-Legal Report dated May 26, 2008; (4) Birth Certificate of AAA; (5) Medico-Legal Report No. R-08-1224 dated May 29, 2008; and (6) Request for Physical and Genital Examination dated May 26, 2008.<sup>13</sup>

On September 21, 2010, the RTC issued an Order admitting the prosecution's documentary exhibits.<sup>14</sup>

For its part, the defense presented as its witness ABC, Anastacia Benzon (Benzon), and Josefa Jebulan (Jebulan).<sup>15</sup>

The RTC summarized ABC's testimony as follows:

[O]n the night of May 25, 2008, [ABC] slept in their rented room in Bagumbayan, Quezon City together with his live-in partner Lorafe Tuscano. He woke up at around [6:00] in the morning and took a bath. He then proceeded to their house located at 159 San Juan St., Mayamot, Antipolo City because his mother told him to fix the wooden bed of his sister [EEE]. He boarded a bicycle and it took him forty[-]five (45) minutes to reach their house. He arrived in their house at 7:00 in the morning. His mother, sister [EEE], nephews and nieces were in their house when he arrived. He also saw Tessie and Relyn Venzon. He started fixing [EEE]'s bed at around 8:00 a.m. He finished his work at 9:00 a.m. He received a phone call from the cousin of AAA who told him that he has an important thing to tell him. [ABC] went back to Bagumbayan and arrived at 11:30 a.m. When he arrived in Bagumbayan, AAA's cousin and a barangay official told him to proceed to the barangay office. He and his live-in partner went to the barangay office [where] he gave his statement. He was brought to the police [station] and was immediately detained.<sup>16</sup>

Benzon and Jebulan, both neighbors of ABC's mother, successively testified and corroborated ABC's testimony.<sup>17</sup>

Thereafter, the defense rested its case. No documentary exhibits were presented and formally offered.<sup>18</sup>

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<sup>12</sup> Id.

<sup>13</sup> *Rollo*, p. 6.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> *CA rollo*, p. 40.

<sup>17</sup> *Rollo*, p. 7.

<sup>18</sup> Id.

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### RTC Decision

On February 20, 2012, the RTC rendered a Decision<sup>19</sup> finding ABC guilty beyond reasonable doubt of the crime of rape in relation to R.A. No. 7610 and was sentenced to suffer the penalty of *reclusion perpetua*. The dispositive portion reads:

WHEREFORE, premises considered, the Court finds accused ABC GUILTY beyond reasonable doubt of the crime of Rape in relation to R.A.[.] 7610 and is sentenced to suffer the penalty of Reclusion Perpetua.

[ABC] is likewise ordered to pay [AAA] ₱50,000.00 as civil indemnity and 50,000.00 as moral damages.

SO ORDERED.<sup>20</sup>

ABC then appealed the RTC Decision to the CA.<sup>21</sup>

### CA Decision

On November 28, 2013, the CA rendered the Assailed Decision affirming with modification the RTC Decision. The dispositive portion reads:

WHEREFORE, the 20 February 2012 [Decision] of Branch 94, Regional Trial Court (RTC) of Quezon City is **AFFIRMED** with **MODIFICATION** as to the penalty imposed. [ABC] is found **GUILTY BEYOND REASONABLE DOUBT** for the crime of Rape in relation to Republic Act No. 7610 and is sentenced to an indeterminate prison term of fourteen (14) years and eight (8) months of prision mayor as minimum to seventeen (17) years, four (4) months and one (1) day of reclusion temporal as maximum.

The rest of the assailed Decision, including the award of ₱50,000.00 as moral damages and ₱50,000.00 civil indemnity stands.

SO ORDERED.<sup>22</sup> (Emphasis in the original)

Hence, the present recourse.

On September 9, 2015, the Court issued a Resolution requiring the parties to file their respective supplemental briefs, if they so desire, within 30 days from notice, among others.<sup>23</sup>

<sup>19</sup> CA rollo, pp. 36-44.

<sup>20</sup> Id. at 44.

<sup>21</sup> Id. at 122-124.

<sup>22</sup> Rollo p. 14.

<sup>23</sup> Id. at 23-24.

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In a Manifestation and Motion<sup>24</sup> dated January 25, 2016, the prosecution relayed that it would no longer file a supplemental brief. Likewise, in a Manifestation (In Lieu of Supplemental Brief)<sup>25</sup> dated February 4, 2016, ABC, through the Public Attorney's Office, relayed that he would no longer file a supplemental brief.

ABC argues that (1) the RTC gravely erred in giving credence to AAA's testimony; (2) the RTC gravely erred in finding him guilty of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt; and (3) assuming *arguendo* that ABC is guilty of the crime charged, the RTC meted the wrong penalty and failed to apply the Indeterminate Sentence Law.<sup>26</sup>

Meanwhile, the prosecution maintains that (1) it was able to prove beyond reasonable doubt that ABC committed rape against AAA and as such, the RTC properly convicted him of the crime charged; (2) ABC's denial and alibi cannot prevail over AAA's positive testimony that he raped her; (3) the RTC correctly convicted ABC of rape under the Revised Penal Code (RPC); and (4) the findings of the RTC on the credibility of the witnesses should be upheld.<sup>27</sup>

### The Issues

As raised by ABC, the following are the issues for the resolution of the Court:

#### I.

Whether or not the RTC gravely erred in giving credence to AAA's testimony.

#### II.

Whether or not the RTC gravely erred in finding him guilty of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt.

#### III.

Whether or not the RTC meted the wrong penalty and failed to apply the Indeterminate Sentence Law assuming *arguendo* that ABC is guilty of the crime charged.

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<sup>24</sup> Id. at 25-28.

<sup>25</sup> Id. at 29-33.

<sup>26</sup> CA *rollo*, p. 16.

<sup>27</sup> Id. at 77.

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## Ruling of the Court

The instant appeal is not meritorious.

As to the first issue, ABC contends that “[a] close scrutiny of [AAA’s] narration of her alleged ordeal would reveal that it was ambiguous, unnatural, and inconsistent with human nature and the normal course of things.”<sup>28</sup>

The Court is not persuaded.

Time and again, the Court emphasized that given its intimate nature, rape is a crime commonly devoid of witnesses.<sup>29</sup> By and large, the victim will be left to testify in relation to the charge.<sup>30</sup> Accordingly, the credibility of the victim becomes a crucial consideration in the resolution of rape cases.<sup>31</sup> The oft-repeated rule is that the testimony of the victim passes the test of credibility when it is straightforward, convincing, and consistent with human nature and the ordinary course of things, without any material or significant inconsistency.<sup>32</sup> The conviction of the accused may solely rely thereon.<sup>33</sup> It is worthy to note that inconsistencies, especially when relating to trivial matters that do not change the fundamental fact of the commission of rape, do not impair the credibility of the testimony.<sup>34</sup> In this regard, the trial court’s assessment of the credibility of witnesses is given great weight, not to mention deemed conclusive and binding.<sup>35</sup>

As explained in *People v. Sapigao, Jr.*,<sup>36</sup> the trial court is in the best position to evaluate the credibility of the witnesses and their testimonies because it has the unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, or attitude under examination, thus:

It is well settled that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination. These are important in determining the truthfulness of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. For, indeed, the emphasis, gesture, and inflection of the voice are potent aids in ascertaining the witness’ credibility, and the trial court has the opportunity and can take advantage of these aids. These cannot be incorporated in the record so that all that the appellate court can see are the cold words of the witness contained in transcript of testimonies with the risk that some of what the

<sup>28</sup> Id. at 30.

<sup>29</sup> *People v. Ocdol*, 741 Phil. 701, 714 (2014).

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> 614 Phil. 589 (2009).

*Meyer*

witness actually said may have been lost in the process of transcribing. As correctly stated by an American court, “There is an inherent impossibility of determining with any degree of accuracy what credit is justly due to a witness from merely reading the words spoken by him, even if there were no doubt as to the identity of the words. However artful a corrupt witness may be, there is generally, under the pressure of a skillful cross-examination, something in his manner or bearing on the stand that betrays him, and thereby destroys the force of his testimony. Many of the real tests of truth by which the artful witness is exposed in the very nature of things cannot be transcribed upon the record, and hence they can never be considered by the appellate court.”<sup>37</sup> (Citations omitted)

In this case, it is indubitable that the RTC found the testimony of AAA as to how ABC had carnal knowledge of her through force and intimidation credible and gave great weight to the same when it ruled for his conviction.<sup>38</sup> The trial court noted that it “has no reason to doubt the testimony of [AAA] which was given in a clear and straightforward manner.”<sup>39</sup> As confirmed by the CA, her testimony, “given positively and candidly, conclusively established” the elements of the crime charged.<sup>40</sup> Relying on the assessment of the lower courts, particularly of the RTC that was in the best position to assess the truthfulness of AAA and the veracity of her narration, the Court finds the testimony of AAA conclusive and binding.

Regarding the second issue, ABC reasons that his guilt was not proven beyond reasonable doubt because the elements of the crime charged against him are not present in the instant case.<sup>41</sup>

The Court begs to disagree.

Before delving into the issue of whether or not the elements of the crime charged are present in this case, it is indispensable to point out and clarify the crime for which ABC was tried and convicted.

The elements of rape under Article 266-A (1)(a,b, and c) of the RPC are: (1) the offender is a man; (2) carnal knowledge of a woman; and (3) through force, threat or intimidation; when the offended party is deprived of reason or otherwise unconscious; and by means of fraudulent machination or grave abuse of authority.<sup>42</sup>

On the other hand, the elements of sexual abuse under Section 5(1) of R.A. No. 7610 are: (1) offender is a man; (2) indulges in sexual intercourse with a female child exploited in prostitution or other sexual abuse, who is 12

<sup>37</sup> Id. at 599.

<sup>38</sup> CA *rollo*, pp. 41-42.

<sup>39</sup> Id. at 43.

<sup>40</sup> *Rollo*, pp. 8-9.

<sup>41</sup> CA *rollo*, pp. 22-29.

<sup>42</sup> *People of the Philippines v. Salvador Tulagan*, G.R. No. 227363, March 12, 2019.

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years old or below 18 or above 18 under special circumstances; and (3) coercion or influence of any adult, syndicate or group is employed against the child to become a prostitute.<sup>43</sup>

In *People of the Philippines v. Salvador Tulagan*,<sup>44</sup> the Court interpreted the cases of *People v. Tubillo*,<sup>45</sup> *People v. Abay*,<sup>46</sup> and *People v. Pangilinan*,<sup>47</sup> and clarified that when the offended party is 12 years old or below 18 and the charge against the accused is carnal knowledge through “force, threat or intimidation,” then he will be prosecuted for rape under Article 266-A(1)(a), thus:

x x x when the offended party is 12 years old or below 18 and the charge against the accused is carnal knowledge through “force, threat or intimidation,” then he will be prosecuted for rape under Article 266-A(1)(a) of the RPC. In contrast, in case of sexual intercourse with a child who is 12 years old or below 18 and who is deemed “exploited in prostitution or other sexual abuse,” the crime could not be rape under the RPC, because this no longer falls under the concept of statutory rape, and the victim indulged in sexual intercourse either “for money, profit or any other consideration or due to coercion or influence of any adult, syndicate or group,” which deemed the child as one “exploited in prostitution or other sexual abuse.”

Applying the foregoing jurisprudence, the CA was mistaken when it held that the conviction by the RTC of ABC was under sexual abuse under Section 5(b) of R.A. No. 7610.<sup>48</sup> His conviction should be for rape under Article 266-A(1).

Proceeding now to the issue of whether or not the elements of the crime of rape under Article 266-A(1) were satisfied, the Court rules in the affirmative.

In the present case, the prosecution proved that ABC had carnal knowledge of AAA through force and intimidation. As narrated by AAA, he embraced her and held her breast. She also testified that he pulled down her short pants and panty and thereafter inserted his penis into her vagina. He also covered her mouth and pinned her left thigh with his left leg.<sup>49</sup>

In his defense, ABC asserted that the Medico-Legal Report reveals no lacerations or tear in AAA’s hymen and that on May 26, 2008, at around 7:00 a.m., during the alleged commission of the crime, he was at his mother’s house in Antipolo City.

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<sup>43</sup> Id.  
<sup>44</sup> Supra note 42.  
<sup>45</sup> 811 Phil. 525 (2017).  
<sup>46</sup> 599 Phil. 390 (2009).  
<sup>47</sup> 676 Phil. 16 (2011).  
<sup>48</sup> *Rollo*, p. 13.  
<sup>49</sup> CA *rollo*, p. 41.

*Meyer*

The abovementioned arguments of ABC do not hold water.

Addressing the absence of lacerations or tear in AAA's hymen, well-settled is the doctrine that complete or full penetration of the complainant's private part or the rupture of the hymen is not necessary in rape cases. What is essential to be proved is "the entrance, or at least the introduction of the male organ into the labia of the pudendum[,]"<sup>50</sup> as in this case.

Likewise, ABC's denial of the commission of the crime and alibi cannot overthrow the testimony of AAA. It bears emphasizing that denial and alibi are intrinsically weak defenses that cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime.<sup>51</sup> Further, for the defense of alibi to convince the Court, the accused must prove not only the fact that he was somewhere else when the crime was committed, but also satisfactorily establish the physical impossibility for him to be at the crime scene at the time of its commission.<sup>52</sup> Here, considering the relatively short distance between Quezon City and Antipolo City, ABC failed to show that it was physically impossible for him to be at the crime scene during its commission.

With respect to the third issue, the Court finds that the RTC was correct in imposing the penalty of *reclusion perpetua*. The law provides that the crime of rape under Article 266-A(1) is punishable by *reclusion perpetua*.<sup>53</sup> As *reclusion perpetua* is an indivisible penalty, with no minimum or maximum period, Act No. 4103, as amended, otherwise known as the "Indeterminate Sentence Law," finds no application in this case.<sup>54</sup>

As to civil indemnity and damages, the Court awards civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱75,000.00 pursuant to prevailing jurisprudence.<sup>55</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated February 20, 2012 of the Regional Trial Court of Quezon City in Criminal Case No. Q-08-152344 is **AFFIRMED** with **MODIFICATIONS**. We find accused-appellant ABC guilty beyond reasonable doubt of the crime of rape as defined under paragraph 1, Article 266-A of the Revised Penal Code and is sentenced to suffer the penalty of *reclusion perpetua*. Accused-appellant is ordered to pay the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All the amounts of

<sup>50</sup> *People v. Castillo*, 274 Phil. 940, 946 (1991).

<sup>51</sup> *People v. Pilpa*, G.R. No. 225336, September 5, 2018.

<sup>52</sup> *Id.*

<sup>53</sup> REVISED PENAL CODE, Article 266-B.

<sup>54</sup> *People v. Ducay*, 747 Phil. 657, 671 (2014).

<sup>55</sup> *People v. Jugueta*, 783 Phil. 806, 849 (2016).

*Meyer*

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

**SO ORDERED.**

*Meyer*  
**ANDRES B. REYES, JR.**  
Associate Justice

**WE CONCUR:**

*M. Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson

*R. Hernandez*  
**RAMON PAUL L. HERNANDO**  
Associate Justice

(On official leave)  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

*R. Zalameda*  
**RODIL V. ZALAMEDA**  
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.

*M. Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson, Second Division

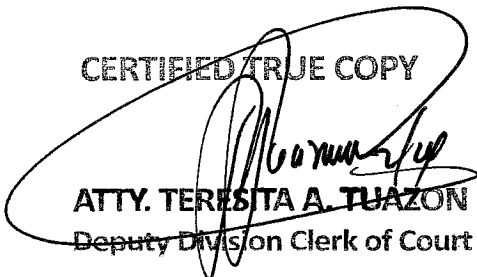
### CERTIFICATION

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.



**DIOSDADO M. PERALTA**  
Chief Justice

CERTIFIED TRUE COPY



**ATTY. TERESITA A. TUAZON**  
Deputy Division Clerk of Court

*Keyes*