



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

DR. ULYSSES TROCIO y G.R. No. 252791
MENDOZA,

Petitioner, Present:

CAGUIOA, J., *Chairperson,*
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,
Respondent.

August 23, 2022

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D E C I S I O N

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ from the Decision² dated December 2, 2019 and Resolution³ dated June 25, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 41352. The CA affirmed with modification the Decision⁴ dated January 26, 2018 of Branch ■■■, Regional Trial Court (RTC), ■■■■■ in Criminal Case No. R-QZN-16-14650-CR that found Dr. Ulysses M. Trocio (petitioner) guilty beyond reasonable doubt of violation of Section 5(b),⁵ Article III

¹ *Rollo*, pp. 25-64.

² *Id.* at 69-78. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Fernanda Lampas Peralta and Ronaldo Roberto B. Martin.

³ *Id.* at 80-81.

⁴ *Id.* at 82-90. Penned by Presiding Judge Roslyn M. Rabara-Tria.

⁵ Section 5(b), Article III of RA 7610 provides, “*Child Prostitution and Other Sexual Abuse.* – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

of Republic Act No. (RA) 7610, otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.”⁶

The Antecedents

Petitioner was charged with Child Abuse through Lascivious Conduct defined and penalized under Section 5(b), Article III of RA 7610 under the following Information:

That on or about 12th day of June, 2015, in ██████████, Philippines, the above-named accused, with intent to abuse, degrade or arouse or gratify his sexual desire did then and there willfully, unlawfully and feloniously, by means of inducement, enticement, force or coercion, commit sexual abuse and lascivious conduct against one AAA,⁷ a minor, 15 years of age (born March 16, 2001), by then and there fondling her breasts, touching her private parts, and kissing her on her neck, thereby subjecting her to child abuse which debases, degrades or demands her intrinsic worth and dignity as a human being, to the damage and prejudice of the said AAA.

Contrary to law.⁸

Upon arraignment, petitioner pleaded “not guilty” to the charge.⁹

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; *Provided*, That when the victims is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be; *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period[.]”

⁶ *Rollo*, p. 90.

⁷ The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, “An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes;” RA 9262, “An Act Defining Violence against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes;” Section 40 of Administrative Matter No. 04-10-11-SC, known as the “Rule on Violence against Women and Their Children,” effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

⁸ *Rollo*, p. 70.

⁹ *Id.*

After the pre-trial, trial ensued.¹⁰

The Version of the Prosecution

On June 12, 2015, AAA felt pain on her ear and went to the clinic of petitioner, an EENT¹¹ doctor, whom she had sought several times in the past for consultation. AAA's friend accompanied her. Petitioner told AAA to go to the second floor of his clinic; he instructed AAA's friend to remain downstairs. While upstairs, petitioner asked AAA to lie on the medical chair. He applied "*agua*" on AAA's ear which caused numbness on the latter's face. Petitioner then held her face with his right hand and used his left hand to fondle her breast and touch her genitals. When she was about to leave, petitioner kissed her neck, handed her a ₱200.00 bill, and told her not to report the incident to her parents. AAA threw the money out of fear. When petitioner called her back, he tried to kiss her again on the neck but she was able to avoid it and left immediately.¹²

In 2016, during a seminar about child abuse, AAA opened up to a certain "*Ma'am Baluyot*" who advised her to do something about the incident. Eventually, AAA told her cousins, her aunt, and her mother CCC, about the harrowing experience. CCC then accompanied AAA to the police station to report the matter.¹³

According to Eleanor De Guzman, the *barangay* public safety officer and VAWC¹⁴ officer assigned in [REDACTED], [REDACTED], on September 16, 2016, she received and recorded a complaint from AAA regarding the incident which allegedly happened on June 12, 2015. Also, Police Officer 3 Marynet Talamayan, the police officer assigned at the Women's and Children Protection Desk, narrated that on September 18, 2016, she was the investigator on duty assigned to AAA's case and assisted the latter in executing her *Malaya at Kusang Loob na Salaysay*.¹⁵

¹⁰ Id.

¹¹ Stands for "Eyes, Ears, Nose, and Throat."

¹² Id. at 70-71.

¹³ Id. at 71.

¹⁴ Stands for "Violence Against Women and their Children."

¹⁵ Id.

The Version of the Defense

Petitioner admitted that AAA was his patient in the medical clinic which he and his wife, Dr. Greta Trocio (Dr. Greta), operated. In May 2015, AAA consulted him about the pain that she was experiencing on her left ear. AAA was accompanied by CCC inside the clinic where the former was asked to sit on the medical chair. She was then diagnosed to be suffering from *otitis media*. Petitioner claimed that he did not apply anything on AAA's ear and that he only prescribed oral antibiotics. When he informed CCC that the total cost of the medicines is at ₱430.00, CCC said that she only had ₱200.00 with her. He told them to settle the balance after a week, but AAA neither returned nor paid the balance.¹⁶

On June 12, 2015, AAA returned to petitioner's clinic. She brought with her a friend and the latter's mother. Her friend needed an ear examination. He could not remember the name of AAA's friend because he only kept records of returning patients. After the medical consultation, he reminded AAA of her unpaid balance; it was the last time that he saw AAA. Petitioner averred that he never took advantage of AAA and, if there was any truth to her allegations, she could have easily shouted for help.¹⁷

Dr. Greta corroborated that she was with her husband in their clinic on June 12, 2015. AAA arrived at their clinic with a young girl and a female adult whose identities she did not know. She saw petitioner, AAA, and her companions go up the second floor of their clinic; they immediately came down after about five minutes. She also heard petitioner reminding AAA about the unpaid balance.¹⁸

The Ruling of the RTC

In the Decision¹⁹ dated January 26, 2018, the RTC convicted petitioner of violation of Section 5(b), Article III of RA 7610, viz.:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Ulysses Trocio y Mendoza guilty beyond

¹⁶ Id. at 71-72.

¹⁷ Id. at 72.

¹⁸ Id.

¹⁹ Id. at 82-90.

reasonable doubt of the crime of Violation of Section 5, paragraph (b) of Republic Act. No. 7610 and he is hereby sentenced to suffer the penalty of eight years (8) years and one (1) day of *prision mayor* as minimum to seventeen (17) years and 4 months and one (1) day of *reclusion temporal* as maximum and to pay the cost.

Accused is further ordered to pay private complainant AAA ₱20,000.00 as civil indemnity, ₱30,000.00 as moral damages and ₱2,000.00 as exemplary damages.

The amount of damages awarded are subject further to interest of six [percent] (6%) per *annum* from the date of finality of this judgment until they are fully paid.

SO ORDERED.²⁰

The RTC found petitioner's defense of denial weak in contrast to the positive and candid declaration of AAA about the incident. It further found AAA's testimony clear, unperturbed, and replete with details of the lascivious conduct committed against her.²¹

Aggrieved, petitioner appealed to the CA.²²

The Ruling of the CA

In the challenged Decision,²³ the CA modified the RTC Decision. Like the RTC, the CA gave weight to the testimony of AAA and found it clear, consistent, and straightforward. Furthermore, it found that AAA's credibility was strengthened by the absence of evidence indicating that she harbored improper motive to falsely testify against petitioner.²⁴ The *fallo* of the Decision reads:

FOR THESE REASONS, the appeal is DENIED. The Decision dated January 26, 2018 of the Branch ■, [Regional Trial Court,] ■ in Criminal Case No. 16-14650 is AFFIRMED with MODIFICATIONS. Accused-appellant Ulysses M. Trocio is sentenced to suffer the indeterminate penalty of imprisonment of eight (8) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal* as maximum. He is further ordered to pay the victim, AAA the amounts

²⁰ Id. at 90.

²¹ Id. at 87-88.

²² Id. at 34.

²³ Id. at 69-78.

²⁴ Id. at 76.

of PhP20,000.00 as civil indemnity, PhP15,000.00 as moral damages, PhP15,000.00 as exemplary damages, and PhP15,000.00 as fine, pursuant to Section [31](f), Article XII of RA No. 7610, all with interest at the rate of 6% per *annum* from the date of finality of this Decision until fully paid.

SO ORDERED.²⁵

Hence, the present petition.

Petitioner maintains that the CA erred in disregarding the totality of evidence which would disprove AAA's claims. Specifically, the obvious inconsistencies in her testimony should not be given full credit by the lower courts. Besides, AAA's own social media posts revealed her to be a worldly and experienced city-teenager who had reason to falsely accuse him.²⁶

In its Comment,²⁷ the People, through the Office of the Solicitor General, maintains that the CA correctly affirmed petitioner's conviction for violation of Section 5(b), Article III of RA 7610.²⁸ Under the circumstances, petitioner's defense that the event could not have possibly happened cannot prevail over the clear, categorical, and positive testimony of AAA.²⁹

The Issue

The issue to be resolved is whether the prosecution proved petitioner's guilt beyond reasonable doubt.

The Court's Ruling

The petition is not meritorious.

The Court affirms petitioner's conviction with modification as to the penalty and damages.

²⁵ Id. at 77-78.

²⁶ Id. at 37-38.

²⁷ Id. at 98-114.

²⁸ Id. at 101.

²⁹ Id. at 111-112.

Settled is the rule that the trial court's factual findings on the credibility of witnesses are accorded the highest weight and respect by this Court. Accordingly, it is given the best opportunity to observe up close the manner by which these witnesses testified and their demeanor while testifying.³⁰ Absent a clear showing that the trial court overlooked or misconstrued some material facts or committed grave abuse of discretion, the appellate court will not disturb such factual findings. This rule becomes even more compelling when the CA concurs with the RTC as in the present case.³¹

It is undisputed that at the time of the commission of the offense charged, AAA was below 18 years of age.³² Section 5(b), Article III of RA 7610 is thus called into application. It reads:

Section 5. *Child Prostitution and Other Sexual Abuse.* — Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period[.] (Underscore supplied)

For conviction under Section 5(b), Article III of RA 7610, the following requisites must be established: “(1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is

³⁰ *People v. XXX* (Notice), G.R. No. 227848, February 5, 2020, citing *People v. Gerola*, 813 Phil. 1055, 1064 (2017).

³¹ *Id.*, citing *Rimando v. People*, 821 Phil. 1086, 1095-1096 (2017).

³² See *rollo*, p. 75.

performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) that child, whether male or female, is below 18 years of age.”³³

Under paragraph (h), Section 2 of the Implementing Rules and Regulations of RA 7610, “lascivious conduct” is defined as the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with the intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, among others. On the other hand, “other sexual abuse” is construed to cover not only a child who is abused for profit, but also one who engages in lascivious conduct through the coercion or intimidation by an adult.³⁴

Corollary, before an accused may be held criminally liable for Lascivious Conduct, the requisites of the crime of Acts of Lasciviousness penalized under Article 336 of the Revised Penal Code (RPC) must be established in addition to the requisites of Sexual Abuse under Section 5(b), Article III of RA 7610.³⁵ Article 336 of the RPC defines and penalizes Acts of Lasciviousness as follows:

Article 336. *Acts of lasciviousness.* — Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by *prisión correccional*.

Thus, the following are the elements of the crime: (1) that the offender commits any act of lasciviousness or lewdness; (2) that it is done under any of the following circumstances: (a) through force, threat, or intimidation; (b) when the offended party is deprived of reason or otherwise unconscious; (c) by means of fraudulent machination or grave abuse of authority; and (d) when the offended party is under 12 years of age or is demented, even though none of the circumstances mentioned above be present; and (3) that the offended party is another person of either sex.³⁶

³³ *Dela Cruz v. People*, G.R. No. 245516, June 14, 2021, citing *Quimvel v. People*, 808 Phil. 889, 915 (2017).

³⁴ *People v. XXX*, G.R. No. 230981, July 15, 2020.

³⁵ *People v. Ladra*, 813 Phil. 862, 874 (2017).

³⁶ *Carbonell v. People*, G.R. No. 246702, April 28, 2021, citing *Quimvel v. People*, 808 Phil. 889, 914 (2017).

All the elements of Lascivious Conduct are present in the case. Petitioner's act of fondling and kissing AAA's breasts could not have signified any other intention but one having lewd or indecent design. The law is clear that mere touching — more so, fondling and kissing, which suggests that the act was intentional, of AAA's private parts constitute lascivious conduct. Notably, AAA was only 15 years old when the incident occurred. AAA testified that on June 12, 2015, petitioner fondled her breasts, touched her genitalia and then kissed her neck during her check-up. To accomplish his lustful desires, petitioner even administered “*agua*” on her ear which made her face numb and prevented her to move and escape from the former's hands.³⁷ In several occasions, the Court has consistently given full weight and credence to a child's testimony as youth and immaturity are badges of truth and sincerity.³⁸ As discussed by the CA:

Given the clear, consistent and straightforward testimony of AAA, the trial court was correct and cannot be faulted for giving her credence and full faith. At this point, it must be underscored that the credibility of witnesses and the veracity of their testimonies are best determined by the trial courts. This is founded by the trial court's opportunity to observe the witnesses, and to note their demeanor, conduct and attitude. Thus, their findings on such matters are binding and conclusive on appellate courts, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted. Here, there is no reason to warrant a departure from this well entrenched principle in the law of evidence. Furthermore, AAA's credibility is strengthened by the absence of any evidence indicating that she harbored improper motive to falsely testify against Trocio.³⁹ (Citations omitted)

Meanwhile, under Section 5(b), Article III of RA 7610, a child is considered subjected to “other sexual abuse” when the child is subjected to lascivious conduct under the coercion and influence of any adult. Under the circumstances, intimidation need not be irresistible. As explained by the Court:

It is sufficient that some compulsion equivalent to intimidation annuls or subdues the free exercise of the will of the offended party. This is especially true in the case of young, innocent, and immature girls who could not be expected to act with equanimity of disposition and with nerves of steel. Young girls cannot be expected to act like adults under the same circumstances to have the courage and

³⁷ *Rollo*, p. 75.

³⁸ *Dela Cruz v. People*, supra note 33, citing *People v. Entrampas*, 808 Phil. 258, 268 (2017).

³⁹ *Rollo*, p. 76.

intelligence to disregard the threat.⁴⁰

Here, undoubtedly, petitioner employed force and intimidation upon AAA. He induced, enticed, forced or coerced AAA, who was expecting a medical treatment, as she was lying helplessly in a medical chair upon the latter's order. Significantly, petitioner forced his hands into AAA's private parts while she was under medication and was experiencing numbness on her face.

Besides, petitioner's bare denial of the allegations against him must fail considering the detailed, consistent, and categorical testimony of the witnesses. AAA's positive identification of petitioner, without any showing of ill motive on the part of the prosecution witnesses, should prevail over the petitioner's alibi and denial. Being self-serving and negative, petitioner's denial is inherently weak and is looked upon with great disfavor. It cannot be given more evidentiary weight than the testimony of AAA.⁴¹ The RTC found:

On the other hand, accused anchors his defense on denial albeit he admitted that AAA was in his clinic on June 12, 2015. It is well settled that denial, if unsubstantiated by clear and convincing evidence, is to be regarded as a weak defense, hence deserves no credence at all. Nothing is more settled in criminal law jurisprudence than that denial cannot prevail over the positive and categorical testimony and identification given by the complainant. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility.

Further, the accused also highlights the failure of AAA to shout if indeed he took advantage of her. The same must fail because not all victims react in the same manner. It must be noted that human reactions vary and are unpredictable when facing a shocking and horrifying experience such as sexual assault.

The accused also tried to ascribe ill motive on private complainant's mother. According to him, he told AAA's mother that she is "fooling him" when the latter insisted that the ₱200.00 she gave him was for consultation. This court, however, finds this flimsy considering that it is unnatural for AAA's mother to subject her own daughter to the hardships and shame concomitant with a prosecution of this nature just because of that incident.⁴² (Citations omitted)

⁴⁰ *Dela Cruz v. People*, supra note 33, citing *People v. Leonardo*, 638 Phil. 161, 188 (2010).

⁴¹ *People v. XXX*, supra note 30, citing *People v. Cabiles*, 810 Phil. 969, 976-977 (2017).

⁴² *Rollo*, p. 88.

The penalty imposed for violation of Section 5(b) of RA 7610 is *reclusion temporal* in its medium period to *reclusion perpetua*. In the absence of mitigating or aggravating circumstances, the maximum term of the sentence shall be taken from the medium period of the prescribed penalty. Moreover, notwithstanding also the fact that RA 7610 is a special law, petitioner may still enjoy the benefits of the Indeterminate Sentence Law. In applying its provisions, the minimum term shall be taken from within the range of the penalty next lower in degree, which is *prision mayor* in its medium period to *reclusion temporal* in its minimum period. Thus, petitioner is sentenced to suffer the indeterminate penalty of imprisonment of ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months, and one (1) day of *reclusion temporal*, as maximum, for violation of Section 5(b) of RA 7610.⁴³

As to the civil indemnities, in *People v. Tulagan*,⁴⁴ the Court held that in Lascivious Conduct under Section 5(b) of RA 7610, when the victim is a child below 18 years of age and the penalty imposed is within the range of *reclusion temporal* medium, the award of civil indemnity, moral damages, and exemplary damages is ₱50,000.00 each.⁴⁵

Here, petitioner is liable to pay ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages. He is also meted out a fine of ₱15,000.00, pursuant to Section 31(f), Article XII of RA 7610 which states:

Common Penal Provisions. –

x x x x

- (f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

The monetary awards shall earn legal interest at a rate of six percent (6%) *per annum* from the date of finality of this Resolution until full payment.

Construing Section 31(f), Article XII of RA 7610, the Court holds

⁴³ *Encinares v. People*, G.R. No. 252267, January 11, 2021.

⁴⁴ G.R. No. 227363, March 12, 2019.

⁴⁵ *Id.*

that the fine of ₱15,000.00 should be imposed regardless of whether petitioner is an “immediate” member of the family of AAA. In several cases, the Court has awarded the fine notwithstanding the fact that the perpetrator of the offense committed under RA 7610 is *not* an immediate family member of the victim.

In *People v. Basa, Jr.*,⁴⁶ the Court awarded a fine although the accused-appellant therein was a churchmate of the victim.

Similarly, in *Escalante v. People*,⁴⁷ the Court awarded a fine of ₱15,000.00 to the victim after it found therein petitioner guilty of Child Abuse under Section 5(b) of RA 7610 for forcibly sucking the victim’s penis and then inserting it in his anus. Notably, therein petitioner was also not related to the victim.

In the case, petitioner’s liability for the imposed fine of ₱15,000.00 should be upheld in furtherance of the law’s objective which is to provide special protection to children and to assist in the rehabilitation of child victims. The gravity of the case at hand cannot be discounted. Petitioner is a doctor, and the trauma as a result of the incident could remain for the rest of AAA’s life. Hence, petitioner must pay the fine pursuant to Section 31(f), Article XII of RA 7610.

WHEREFORE, the petition is **DENIED**. The Decision dated December 2, 2019 and Resolution dated June 25, 2020 of the Court of Appeals in CA-G.R. CR No. 41352 are **AFFIRMED** with **MODIFICATION**. Petitioner Dr. Ulysses M. Trocio is found guilty beyond reasonable doubt of Lascivious Conduct under Section 5(b), Article III of Republic Act No. 7610. He is sentenced to suffer the indeterminate penalty of imprisonment of ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months, and one (1) day of *reclusion temporal*, as maximum. He is also **ORDERED** to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages, and a fine of ₱15,000.00. The monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

⁴⁶ G.R. No. 237349, February 27, 2019.

⁴⁷ 811 Phil. 769 (2017).

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



SAMUEL H. GAERLAN
Associate Justice



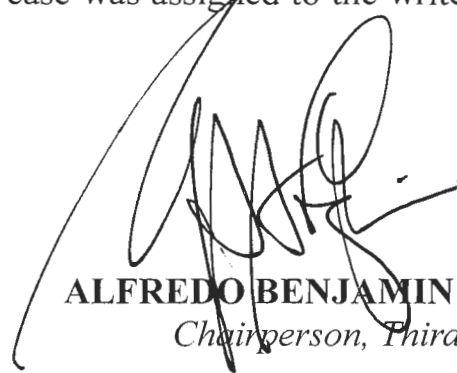
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FLOMENA D. SINGH
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.



ALFREDO BENJAMIN S. CAGUIOA
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.



ALEXANDER G. GESMUNDO
Chief Justice