



Republic of the Philippines
 Supreme Court
 Baguio City

THIRD DIVISION

DR. PETER STEPHEN S. G.R. No. 249135
 SAMONTE,

Petitioner, Present:

- versus -

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

ANTONIO B. JUMAWAK,
 MARINA M. TINONGA,
 NESTOR I. EPO, CORNELIO
 R. TABAD,* SAMUEL L.
 EMIA, ARFEL D. DAAN,
 OMAR G. BAYRON, WILLIE
 JAMES A. WONG, OFFICE
 OF THE DEPUTY
 OMBUDSMAN FOR
 MINDANAO AND ROBERTO
 Y. UY,** PROVINCIAL
 GOVERNOR, PROVINCE OF
 ZAMBOANGA DEL NORTE,

Respondents.

Promulgated:

January 11, 2023

~~MISTOCBATT~~

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DECISION

INTING, J.:

Before the Court is a Verified Petition¹ under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision² dated September

* Cornelio L. Tabad in some parts of the *rollo*.

** Roberto Y. Uy is included in the case title as one of the public respondents in CA-G.R. SP No. 07508-MIN together with Office of the Deputy Ombudsman for Mindanao.

¹ *Rollo*, pp. 15-34.

² Id. at 129-197. Penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Edgardo A. Camello and Perpetua T. Atal-Paño.

27, 2018 and the Resolution³ dated July 26, 2019 of the Court of Appeals (CA) in CA-G.R. SP Nos. 07259-MIN, 07508-MIN, 07532-MIN, 07285-MIN, 07442-MIN, 08624-MIN, 08625-MIN & 08626-MIN. The assailed Decision affirmed the findings of the Office of the Ombudsman (Ombudsman) of petitioner's guilt in OMB-M-A-15-0148 for Grave Misconduct, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service; and the imposition upon him of the penalty of dismissal from service. The assailed Resolution denied petitioner's Motion for Reconsideration⁴ for lack of merit.⁵

The Antecedents

The case stemmed from the Joint Complaint-Affidavit⁶ dated May 10, 2012 signed by Antonio B. Jumawak, Marina M. Tinonga, Nestor I. Epo, Cornelio R. Tabad, Samuel L. Emia, Arfel D. Daan, Omar G. Bayron, and Luzvina M. Sumiton (collectively, complainants) filed against the following: Dr. Peter Stephen S. Samonte (petitioner), Municipal Health Officer; Cipriano B. Plazos, Municipal Treasurer; and Urdaneta C. Madridondo (Madridondo), Senior Bookkeeper and former Officer-in-Charge Municipal Accountant (collectively, Plazos, *et al.*), of the Municipality of Katipunan, Zamboanga del Norte for Grave Misconduct, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service.

The OMB-M-A-15-0148 is a redocket of OMB-M-A-12-0225, which is the administrative aspect of the complaint against petitioner and Plazos, *et al.* on the complaint against their alleged unliquidated cash advances.⁷ In a Joint-Resolution⁸ dated February 14, 2013, the Ombudsman dismissed OMB-M-A-12-0225 without prejudice because of insufficiency of evidence and the absence of audit findings from the

³ Id. at 210-233. Penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Edgardo A. Camello and Edgardo T. Lloren.

⁴ Id. at 198-205.

⁵ Id. at 231.

⁶ Id. at 37-45. The Joint Complaint-Affidavit includes the following respondents: Crisostomo T. Eguia, Jr., then incumbent Mayor; Patchito T. Eguia, then Vice Mayor; Jumar P. Moreno, Ambrosio S. Necesario, Loreto S. Andaling, all *Sangguniang Bayan* Members; Adelaida A. Eguia, Agricultural Technologist; Dick I. Romarate, Officer-in-Charge MPDC, Administrative Officer IV; and Helen L. Dangase, Municipal Budget Officer.

⁷ Id. at 54.

⁸ Id. at 90-94. Penned by Graft Investigation and Prosecution Officer I Aileen Lourdes A. Lizada, and approved by Deputy Ombudsman for Mindanao Humphrey T. Monteroso on March 21, 2013.

Commission on Audit (COA). Concurrently, the Ombudsman ordered the COA to conduct a special audit investigation.⁹

The COA submitted its Final Evaluation Report¹⁰ (COA Report) dated February 16, 2015 showing that petitioner obtained a total of ₱173,615.00 cash advances from January 1999 up to 2011,¹¹ and as of February 2015 his unliquidated balance remained at ₱27,500.00.¹² The COA found that petitioner and Plazos, *et al.* violated the laws, rules, and regulations on cash advances. Hence, the redocketing of the case.¹³

In petitioner's counter-affidavit before the Ombudsman, he denied the charges against him and averred that he had fully liquidated his cash advances as evidenced by the Certification¹⁴ dated June 16, 2015 issued by Mary Ann A. Elumbaring (Elumbaring), Municipal Accountant. In the Certification, Elumbaring stated that petitioner had no more outstanding cash advances.

The Ombudsman's Ruling

In its Decision¹⁵ dated October 27, 2015, the Ombudsman – Mindanao found petitioner and Plazos, *et al.* administratively liable as charged for violating and neglecting to observe the laws, rules, and regulations, governing the grant and liquidation of cash advances. Insofar as the petitioner was concerned, the Ombudsman ruled, among others, that petitioner was obligated to account all his cash advances on time and to support it with complete documentation,¹⁶ but petitioner grossly failed to comply with the requirements.¹⁷

In his Motion for Reconsideration,¹⁸ petitioner raised, among others, that: (1) the Ombudsman failed to appreciate and recognize that

⁹ Id. at 54.

¹⁰ Id. at 254-267.

¹¹ Id. at 256.

¹² Id. at 265.

¹³ Id. at 54.

¹⁴ Id. at 252.

¹⁵ Id. at 53-62. Penned by Graft Investigation and Prosecution Officer I Rosemil Robles Bañaga, and approved by Deputy Ombudsman for Mindanao Rodolfo M. Elman on November 6, 2015.

¹⁶ Id. at 59.

¹⁷ Id. at 57.

¹⁸ Id. at 63-84.

he substantially complied with the liquidation requirements; (2) his liquidation reports were supported by the required documents as opposed to the findings of the Ombudsman; (3) the Ombudsman failed to consider the Final Evaluation Report by Audit Team Leader Jonathan Q. Manuel (ATL Manuel) stating that petitioner no longer had any outstanding cash advance; and (4) the penalty of dismissal with its accessory penalties was too harsh considering the extenuating circumstances obtaining in the case.¹⁹

In the Order²⁰ dated May 4, 2016, the Ombudsman denied the motion declaring that petitioner and Plazos, *et al.* failed to satisfactorily rebut its finding. It found that they grossly neglected to observe the laws, rules and regulations before availing themselves of the cash advances, as well as the specific period within which to effect the liquidation.²¹

Petitioner and Plazos, *et al.* filed a Petition for Review²² with the CA.

The CA Ruling

In its assailed Decision,²³ the CA denied petitioner's petition for review and affirmed *in toto* the findings of the Ombudsman.²⁴ The CA ruled that: (1) the findings of the Ombudsman are supported by substantial evidence;²⁵ (2) the dismissal was not unduly harsh following Section 55²⁶ of the Uniform Rules on Administrative Cases in the Civil Service (URACCS);²⁷ and (3) the dismissal of OMB-M-A-12-0237 did

¹⁹ Id. at 65-67.

²⁰ Id. at 85-89. Penned by Graft Investigation and Prosecution Officer I Rosemil Robles Bañaga, and approved by Deputy Ombudsman for Mindanao Rodolfo M. Elman on May 16, 2016.

²¹ Id. at 87.

²² Id. at 95-117.

²³ Id. at 129-197.

²⁴ Id. at 196.

²⁵ Id. at 173.

²⁶ Section 55 of the Uniform Rules on Administrative Cases in the Civil Service provides:

Section 55. Penalty for Multiple Offenses. If the respondent is found guilty of two (2) or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances.

In case the respondent is found guilty of two or more counts of the same offense, the penalty shall be imposed in the maximum regardless of the presence of any mitigating circumstance.

²⁷ *Rollo*, p. 183.

not attain finality; hence, the dismissal did not bar the redocketing of the case.²⁸

Petitioner filed a Motion for Reconsideration,²⁹ but the CA denied it in the assailed Resolution.³⁰

Hence, the instant petition.

The Issues

(1) Whether the CA committed a reversible error in affirming the Decision in OMB-M-A-15-0148; and

(2) Whether the penalty of dismissal from service imposed by the Ombudsman is too harsh.³¹

Our Ruling

The petition is granted.

The Court finds that petitioner is not totally innocent of any misconduct. There is substantial evidence to prove petitioner's guilt, not of Grave Misconduct, Gross Neglect of Duty, or Conduct Prejudicial to the Best Interest of the Service, but only of Simple Misconduct.

In the case of *Civil Service Commission v. Ledesma*,³² the Court defined misconduct as follows:

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be established by

²⁸ Id. at 194.

²⁹ Id. at 198-205.

³⁰ Id. at 210-233.

³¹ Id. at 23.

³² 508 Phil. 569 (2005).

substantial evidence. Otherwise, the misconduct is only simple. *A person charged with grave misconduct may be held liable for simple misconduct if the misconduct does not involve any of the additional elements to qualify the misconduct as grave.*

Grave misconduct necessarily includes the lesser offense of simple misconduct. x x x.³³ (Italics supplied.)

In the case, the COA found petitioner to have grossly failed to comply with the following laws, rules, and regulations:³⁴

1. Section 89 of Presidential Decree No. 1445³⁵ provides that no cash advance shall be given unless for a legally authorized specific purpose. A cash advance shall be reported on and liquidated as soon as the purpose for which it was given has been served. No additional cash advance shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made;
 - 1.1 Section 4(6) also provides that claims against government funds shall be supported with complete documentation;
2. For expenditures, disbursements, accounting, and accountability of public money or property, Section 347 of Republic Act No. 7160³⁶ states that local accountable officers shall render their accounts within such time, in such form, style, and content and under such regulations as the COA may prescribe;
3. Since the COA Report states that petitioner's cash advances were for local travels, COA Circular No. 96-004³⁷ substantially provides that no cash advance shall be granted to any official employee unless a

³³ Id. at 579-580. Citations omitted.

³⁴ *Rollo*, pp. 257-260.

³⁵ Government Auditing Code of the Philippines.

³⁶ Local Government Code of 1991, approved on October 10, 1991.

³⁷ With the subject, "Guidelines to implement Section 16 of Executive Order No. 248 as amended by Executive Order No. 248-A which prescribes the regulations and new rates of allowance for official local and foreign travels of government personnel," dated April 19, 1996.

proper accounting of the previous cash advance for travel given to him is first made or the same is first liquidated and/or settled. Further, the cash advance for official travels should have an approved travel order and an itinerary of travel, and its liquidation must be supported with a certificate of travel completed and a certificate of attendance or appearance, among other requirements. Provided, further, that the liquidation must be effected strictly within 30 days after returning to one's permanent official station; and

4. COA Circulars Nos. 90-331³⁸ and 97-002³⁹ likewise require that when a cash advance is no longer needed or has not been used for a period of two months, it must be returned to or deposited immediately with the collecting officer-in-charge, and that no cash advance should remain unliquidated by the end of each year.

The Ombudsman adopted the COA Report which indicates that petitioner grossly failed to submit the requisite documents for availing himself of the travel cash advances, the liquidating of the travel cash advances, and the rendering of an account thereof within the prescribed 30-day period. As stressed by the Ombudsman, petitioner liquidated his cash advances granted from January 1999 to May 2011 only in May and July 2012; while cash advances granted to him in June, July, and September 2010 were only liquidated in December 2011. However, the Court finds that these do not as a whole establish petitioner's corruption, willful intent to violate the law, or to disregard established rules.

Still, the Court takes into account the nature of petitioner's work as the Municipal Health Officer of Katipunan, Zamboanga del Norte and, at the same time, as the Rural Health Physician of the Municipality of Roxas, Zamboanga del Norte per Office Memorandum No. 15, Series

³⁸ With the subject, "Rules and Regulations on the Granting, Utilization and Liquidation of Cash Advances," dated May 3, 1990.

³⁹ With the subject, "Restatement with Amendments of the Rules and Regulations on the Granting, Utilization and Liquidation of Cash Advances provided for under COA Circular No. 90-331 dated May 3, 1990," dated February 10, 1997.



of 2000⁴⁰ and Office Memorandum No. 071, Series of 2007.⁴¹ The then Municipal Mayor Patchito T. Eguia designated petitioner as the Rural Health Physician of Roxas, per Office Memorandum No. 15, Series of 2000 dated January 10, 2000, because the municipality had no appointed Municipal Health Officer at that time. Petitioner's designation was effective immediately upon issuance until revoked by the Mayor's office. While, on July 31, 2007, the then Municipal Mayor Crisostomo T. Eguia, Jr. (Mayor Crisostomo), acting on the request of the local government unit of Roxas, designated petitioner again as the visiting physician thereat effective on August 1, 2007 until revoked.

To stress, aside from petitioner's regular duties as the Municipal Health Officer of Katipunan, Zamboanga del Norte, he was also enjoined to report to the Rural Health Unit of Roxas once every week and as often as necessary.⁴² The Court notes that he received another memorandum⁴³ from Mayor Crisostomo directing him to open their office for 24 hours a day and seven days a week to attend to emergency cases.

While petitioner's voluminous work and the fact that he had no clerk to help him with his liquidations cannot serve as valid excuse from complying with the liquidation requirements,⁴⁴ the circumstances, however, show the lack of the element of corruption. Even though petitioner failed to liquidate his cash advances within the prescribed period, it cannot be concluded in the absence of substantial evidence, that he did so with either a corrupt or a clear willful intent as to amount to an open defiance or a flagrant disregard of the rules.⁴⁵

Therefore, the Court finds petitioner liable, but only for a lesser offense of Simple Misconduct.

Meanwhile, the Court defined Gross Neglect of Duty or Gross Negligence as referring to negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious

⁴⁰ *Rollo*, p. 246.

⁴¹ *Id.* at 247.

⁴² *Id.*

⁴³ *Id.* at 249.

⁴⁴ *Id.* at 57.

⁴⁵ *Domingo v. Civil Service Commission*, G.R. No. 236050, June 17, 2020.

indifference to consequences, insofar as other persons may be affected.⁴⁶ It denotes a *flagrant and culpable refusal or unwillingness* of a person to perform a duty.⁴⁷ Simple Neglect of Duty, however, signifies a disregard of a duty resulting from carelessness or indifference.⁴⁸

The Court, however, finds that petitioner is not liable for either Gross or Simple Neglect of Duty.

The Court elucidates.

The Ombudsman ruled that petitioner neglected to comply with COA State Auditor Maria Fe A. Apigo's demand to settle his outstanding accountabilities within 30 days from his receipt of the demand letter dated February 8, 2012.⁴⁹ It further held that petitioner received the letter sometime in February 2012, but he only settled his accounts through refunds⁵⁰ in May and July 2012, or after the lapse of four months counted from the expiration of the time set by the State Auditor.⁵¹

However, the Ombudsman failed to consider that petitioner had in fact *fully liquidated* all his cash advances on July 26, 2012 as evidenced by the following:

1. Petitioner's liquidation reports showing that the total amount of cash advanced to him had been fully and satisfactorily liquidated;⁵²
2. Certification⁵³ dated July 27, 2012 issued by the OIC-Municipal Accountant Madridondo stating that per records petitioner had fully liquidated his cash advances as stipulated on Schedule of Cash Advances on July 26, 2012;

⁴⁶ *Purisima v. Ricafranca*, G.R. No. 237530, November 29, 2021, *Golangco v. Atty. Fung*, 535 Phil. 331, 341 (2006), further citing *Brucal v. Hon. Desierto*, 501 Phil. 453, 465-466 (2005).

⁴⁷ *Philippine Retirement Authority v. Rupa*, 415 Phil. 713 (2001).

⁴⁸ *Id.* at 721, citing Black's Law Dictionary, 4th edition, pp. 832 and 1184.

⁴⁹ *Rollo*, p. 57.

⁵⁰ *Id.* at 265.

⁵¹ *Id.* at 58.

⁵² *Id.* at 74.

⁵³ *Id.* at 250-251.

3. Final Evaluation Report⁵⁴ submitted by ATL Manuel to the Ombudsman on October 14, 2013 which substantially states that petitioner had fully liquidated and/or refunded his cash advances; that his liquidation was duly supported by liquidation reports and the required supporting documents. Petitioner's refund was paid to the Office of the Municipal Treasurer as evidenced by Official Receipts-Accountable Form No. 51 in accordance with existing rules and regulations;⁵⁵

4. Certification⁵⁶ dated June 16, 2015 issued by the Municipal Accountant Elumbaring saying that, per office record which was turned over by former OIC-Municipal Accountant Madridondo, petitioner had no pending outstanding unliquidated cash advance pertaining to cash advances granted on December 2012 and on earliest dates as of December 31, 2013. Likewise, petitioner's current cash advances pertaining to January 2012 and in later dates were already liquidated. Therefore, as of the issuance of the certification, petitioner had no more outstanding cash advances.

Although petitioner's compliance was way beyond the period prescribed by the applicable laws, rules, and regulations, his acts cannot still be characterized as *flagrant and culpable refusal or unwillingness* to perform a duty. In fact, upon demand of COA State Auditor Maria Fe A. Apigo, petitioner already commenced the liquidation of his cash advances despite the overwhelming demands of his work and the lack of clerical support in his office.⁵⁷ Therefore, the Court finds that petitioner's act falls short to be considered as gross neglect of duty.

Considering further that petitioner was assigned to concurrently work as the Municipal Health Officer in two municipalities of

⁵⁴ Id. at 255.

⁵⁵ Id. at 257.

⁵⁶ Id. at 252.

⁵⁷ Id. at 70.



Zamboanga del Norte, his failure to liquidate his cash advances within the prescribed period is not the disregard of duty resulting from carelessness or indifference as contemplated by the law.

On the other hand, while there is no concrete description of what specific acts constitute the grave offense of Conduct Prejudicial to the Best Interest of the Service,⁵⁸ the Court in *Dr. Pia v. Hon. Gervacio, Jr.*⁵⁹ explained that acts may constitute Conduct Prejudicial to the Best Interest of the Service as long as they tarnish the image and integrity of his or her public office.⁶⁰

The following acts or omissions have been treated as Conduct Prejudicial to the Best Interest of the Service by the Court: (a) misappropriation of public funds; (b) abandonment of office; (c) failure to report back to work without prior notice; (d) failure to safe-keep public records and property; (e) making false entries in public documents; (f) falsification of court orders; (g) a judge's act of brandishing a gun; and (h) threatening the complainants during a traffic altercation.⁶¹

Here, the Court cannot deduce from the facts and circumstances surrounding the case how petitioner's act amounted to a Conduct Prejudicial to the Best Interest of the Service. Petitioner's act did not tarnish the image of his public office. In fact, petitioner's subsequent refund and liquidation of his cash advances, although belated, negate any form of corruption, willful intent to violate the law, or to disregard established rules.

The Court reiterates that "*to be disciplined for grave misconduct or any grave offense, the evidence should be competent and must be derived from direct knowledge. There must be evidence, independent of the petitioners' failure to comply with the rules, which will lead to the foregone conclusion that it was deliberate and was done precisely to procure some benefit for themselves or for another person.*"⁶²

⁵⁸ Id.

⁵⁹ 710 Phil. 196 (2013).

⁶⁰ Id. at 206, citing *Avenido v. Civil Service Commission*, 576 Phil. 654, 662 (2008).

⁶¹ *Domingo v. Civil Service Commission*, supra note 45, citing *Catipon v. Japson*, 761 Phil. 205, 221-222 (2015).

All told, in the present case, the Ombudsman failed to show by substantial evidence that petitioner benefited from his acts. Absent any evidence establishing corruption and bad faith,⁶³ petitioner therefore cannot be held liable for grave misconduct, or any other grave offense classified under the Civil Service Law.

Under the same law⁶⁴ and the applicable implementing rules on administrative cases,⁶⁵ the penalty for the first offense of Simple Misconduct is suspension of one (1) month and one (1) day to six (6) months. Further, in the absence of mitigating and aggravating circumstances, the Court finds that the suspension of one (1) month and one (1) day is proper.

WHEREFORE, the petition is **GRANTED**. The Decision dated September 27, 2018 and the Resolution dated July 26, 2019 of the Court of Appeals in CA-G.R. SP Nos. 07259-MIN, 07508-MIN, 07532-MIN, 07285-MIN, 07442-MIN, 08624-MIN, 08625-MIN & 08626-MIN are **SET ASIDE**. A new one is entered finding petitioner Dr. Peter Stephen S. Samonte guilty of Simple Misconduct only. Accordingly, the Court imposes on him the penalty of suspension of one (1) month and one (1) day.

If the penalty of suspension can no longer be implemented due to petitioner's separation from the service, the payment of fine in lieu of separation is available in the amount corresponding to petitioner's one month and one day salary to be deducted from his retirement benefits.

⁶² *Reyes v. Field Investigation Office II*, G.R. No. 248274 (Notice), March 3, 2021, citing *Yamson v. Castro*, 790 Phil. 667, 704 (2016).

⁶³ Bad faith connotes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. See *Roy III v. Ombudsman*, G.R. No. 225718, March 4, 2020, citing *Coloma, Jr. v. Sandiganbayan et al.*, 744 Phil. 214, 229 (2014).

⁶⁴ Subtitle A, Title I, Book V of Executive Order No. 292, otherwise known as the "Administrative Code of 1987," approved on July 25, 1987.

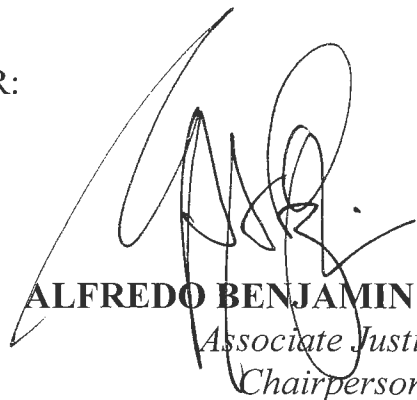
⁶⁵ Section 52(B)(2), Rule IV, 1999 Uniform Rules on Administrative Cases in the Civil Service. The penalty of suspension for the first offense of simple misconduct is reiterated in Section 46(D)(2), Rule 10, 2011 Revised Rules on Administrative Cases in the Civil Service (2011 RRACCS); and Section 50 (D)(2), Rule 10, 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS).

SO ORDERED.

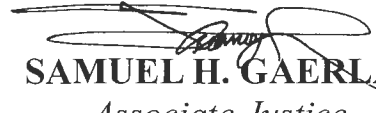


HENRY JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



SAMUEL H. GAERLAN
Associate Justice



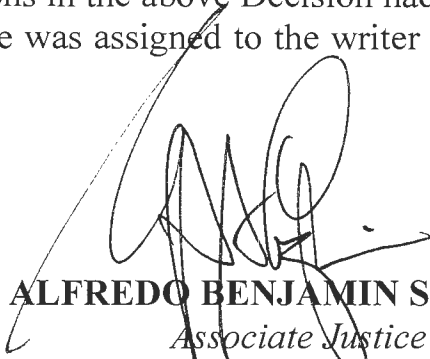
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA 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
Associate Justice
Chairperson, Third Division

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice

