



CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
JUN 27 2016

Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

VIRGINIA D. CALIMAG,
 Petitioner,

G.R. No. 191936

Present:

VELASCO, JR., J.,
Chairperson,

- versus -

PERALTA,
PEREZ,
REYES, and
JARDELEZA,* JJ.

HEIRS OF SILVESTRA N.
MACAPAZ, represented by
ANASTACIO P. MACAPAZ, JR.,
 Respondents.

Promulgated:

June 1, 2016

Wilfredo V. Lapitan

X-----X

DECISION

REYES, J.:

This is a petition for review on *certiorari*¹ assailing the Decision² of the Court of Appeals (CA) promulgated on October 20, 2009 in CA-G.R. CV No. 90907 which affirmed with modification the Decision³ dated September 28, 2007 of the Regional Trial Court (RTC) of Makati City, Branch 147, in Civil Case No. 06-173, an action for annulment of deed of sale and cancellation of title with damages. The CA Resolution⁴ dated April 5, 2010 denied the motion for reconsideration thereof.

* On official leave.

¹ *Rollo*, pp. 7-24.

² Penned by Associate Justice Martin S. Villarama, Jr. (now retired Supreme Court Associate Justice), with Associate Justices Magdangal M. De Leon and Ricardo R. Rosario concurring; *id.* at 26-39.

³ *Id.* at 62-67.

⁴ *Id.* at 41-42.

Λ

The Facts

Virginia D. Calimag (petitioner) co-owned the property, the subject matter of this case, with Silvestra N. Macapaz (Silvestra).

On the other hand, Anastacio P. Macapaz, Jr. (Anastacio, Jr.) and Alicia Macapaz-Ritua (Alicia) (respondents) are the children of Silvestra's brother, Anastacio Macapaz, Sr. (Anastacio, Sr.) and Fidela O. Poblete Vda. de Macapaz (Fidela).

The subject property, with a total area of 299 square meters, is located at No. 1273 Bo. Visaya Street, Barangay Guadalupe Nuevo, Makati City, and was duly registered in the names of the petitioner (married to Demetrio Calimag) and Silvestra under Transfer Certificate of Title (TCT) No. 183088.⁵ In said certificate of title, appearing as Entry No. 02671 is an annotation of an Adverse Claim of Fidela asserting rights and interests over a portion of the said property measuring 49.5 sq m.⁶

On November 11, 2002, Silvestra died without issue. On July 7, 2005, TCT No. 183088 was cancelled and a new certificate of title, TCT No. 221466,⁷ was issued in the name of the petitioner by virtue of a Deed of Sale⁸ dated January 18, 2005 whereby Silvestra allegedly sold her 99-sq-m portion to the petitioner for ₱300,000.00. Included among the documents submitted for the purpose of cancelling TCT No. 183088 was an Affidavit⁹ dated July 12, 2005 purportedly executed by both the petitioner and Silvestra. It was stated therein that the affidavit of adverse claim filed by Fidela was not signed by the Deputy Register of Deeds of Makati City, making the same legally ineffective. On September 16, 2005, Fidela passed away.¹⁰

On December 15, 2005, Anastacio, Jr. filed a criminal complaint for two counts of falsification of public documents under Articles 171 and 172 of the Revised Penal Code against the petitioner.¹¹ However, said criminal charges were eventually dismissed.

On March 2, 2006, the respondents, asserting that they are the heirs of Silvestra, instituted the action for *Annulment of Deed of Sale and Cancellation of TCT No. 221466 with Damages* against the petitioner and

⁵ Records, p. 10.

⁶ Id. at 11.

⁷ Id. at 12-13.

⁸ Id. at 14.

⁹ Id. at 15.

¹⁰ *Rollo*, pp. 27-28.

¹¹ Records, pp. 151-152.

1

the Register of Deeds of Makati City.¹²

In her *Answer with Compulsory Counterclaim*,¹³ the petitioner averred that the respondents have no legal capacity to institute said civil action on the ground that they are illegitimate children of Anastacio, Sr. As such, they have no right over Silvestra's estate pursuant to Article 992 of the Civil Code which prohibits illegitimate children from inheriting intestate from the legitimate children and relatives of their father and mother.

After trial, the RTC found for the respondents and rendered its Decision on September 28, 2007.¹⁴ The *fallo* of the RTC decision reads:

WHEREFORE, premises considered, judgment is rendered as follows:

1. Declaring the Deed of Sale purportedly executed by [Silvestra] in favor of [the petitioner] on January 18, 2005 over a parcel of land covered by TCT No. 183088 of the Registry of Deeds of Makati City, as Null and Void;
2. Ordering the Registrar of Deeds of Makati City to cancel TCT No. 221466 issued in the name of [the petitioner], the same having been issued on the basis of a fraudulent/falsified Deed of Sale, and thereafter to reinstate TCT No. 183088 issued in the name of [the petitioner] and [Silvestra] with all the liens and encumbrances annotated thereon, including the adverse claim of [Fidela]; [and]
3. Ordering [the petitioner] to pay the [respondents] the sum of P100,000.00 as moral damages and another P100,000.00 as exemplary damages, P50,000.00 as and by way of attorney's fees, plus costs of suit.

[The petitioner's] counter-claim is dismissed for lack of merit.

SO ORDERED.¹⁵

The RTC found that the Deed of Sale dated January 18, 2005 presented for the cancellation of TCT No. 183088 was a forgery considering that Silvestra, who purportedly executed said deed of sale died on November 11, 2002, about three years before the execution of the said Deed of Sale.¹⁶ Respecting the respondents' legal capacity to sue, the RTC favorably ruled in this wise:

¹² Id. at 1-8.

¹³ *Rollo*, pp. 59-61.

¹⁴ Id. at 62-67.

¹⁵ Id. at 66-67.

¹⁶ Id. at 65.

Λ

Demetrio Calimag, Jr. sought, but failed, to impugn the personality of the [respondents] to initiate this action as the alleged heirs of [Silvestra]. **The marriage between [Anastacio Sr.] and [Fidela] is evidenced by the Certificate of (canonical) Marriage (Exh. "M"). The name 'Fidela Obera Poblete' is indicated in [the respondents'] respective birth certificates as the mother's maiden name but Fidela signed the same as the informant as "Fidela P. Macapaz". In both birth certificates, "Anastacio Nator Macapaz" is indicated as the name of the father.**¹⁷ (Emphasis ours)

Ruling of the CA

Aggrieved, the petitioner elevated her case to the CA resting on the argument that the respondents are without legal personality to institute the civil action for cancellation of deed of sale and title on the basis of their claimed status as legitimate children of Anastacio, Sr., the brother and sole heir of the deceased, Silvestra.¹⁸

On October 20, 2009, the CA rendered its Decision affirming the RTC decision with modification as to the amount of damages. The *fallo* of the assailed decision reads:

WHEREFORE, premises considered, the present appeal is hereby DISMISSED, for lack of merit. The Decision dated September 28, 2007 of the [RTC] of Makati City, Branch 147 in Civil Case No. 06-173 is hereby AFFIRMED with MODIFICATION in that the award of moral and exemplary damages is hereby reduced from P100,000.00 to P50,000.00, respectively.

With costs against the [petitioner].

SO ORDERED.¹⁹

The CA sustained the RTC ruling that the cancellation of TCT No. 183088 and the issuance of TCT No. 221466 in the name of the petitioner were obtained through forgery. As to the question of whether the respondents are legal heirs of Silvestra and thus have the legal capacity to institute the action, the CA ruled in this wise:

Reviewing the evidence on record, we concur with the trial court in sustaining the appellees' legitimate filiation to Silvestra's brother, [Anastacio, Sr.] The trial court found unsuccessful the attempt of Atty. Demetrio Calimag, Jr. to assail the validity of marriage between [Anastacio, Sr.] and [Fidela] with a certification from the NSO that their office has no record of the certificate of marriage of

¹⁷ Id. at 66.

¹⁸ Id. at 31-32.

¹⁹ Id. at 39.

Λ

[Anastacio, Sr.] and [Fidela], and further claiming the absence of a marriage license.

The best proof of marriage between man and wife is a marriage contract. A certificate of marriage issued by the Most Holy Trinity Parish, Alang[-]alang, Leyte (Exh. "M") as well as a copy of the marriage contract were duly submitted in evidence by the [respondents].

x x x x

The Marriage Contract (Exh. "U") in this case clearly reflects a marriage license number and in the absence of a certification from the local civil registrar that no such marriage license was issued, the marriage between [Anastacio, Sr.] and [Fidela] may not be invalidated on that ground.
x x x.

x x x x

Every intendment of the law leans toward legalizing matrimony. Persons dwelling together in apparent matrimony are presumed, in the absence of any counterpresumption or evidence special to the case, to be in fact married. This jurisprudential attitude towards marriage is based on the *prima facie* presumption that a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage. The Courts look upon this presumption with great favor. It is not to be lightly repelled; on the contrary, the presumption is of great weight.

Here, the fact of marriage between [Anastacio, Sr.] and [Fidela] was established by competent and substantial proof. [The respondents] who were conceived and born during the subsistence of said marriage are therefore presumed to be legitimate children of [Anastacio, Sr.], in the absence of any contradicting evidence.²⁰ (Citations omitted)

The petitioner sought reconsideration,²¹ but her motion was denied in the Resolution²² dated April 5, 2010.

Hence, this petition.

Notably, even before the CA, the petitioner never assailed the factual finding that forgery was indeed committed to effect the cancellation of TCT No. 183088 and the consequent transfer of title of the property in her name. Verily, in this petition, the petitioner continues to assail the legal capacity of the respondents to institute the present action. Invoking the provisions of Article 992 of the Civil Code,²³ the petitioner insists that the respondents have no legal right

²⁰ Id. at 34-36.

²¹ Id. at 105-112.

²² Id. at 41-42.

²³ ART. 992. An illegitimate child has no right to inherit *ab intestato* from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child.

1

over the estate left by Silvestra for being illegitimate children of Anastacio, Sr.

While the petitioner does not question that Anastacio, Sr. is the legal heir of Silvestra, she, however, claims that the respondents failed to establish their legitimate filiation to Anastacio, Sr. considering that the marriage between Anastacio, Sr. and Fidela was not sufficiently proven. According to the petitioner, the marriage contract²⁴ presented by the respondents is not admissible under the Best Evidence Rule for being a mere fax copy or photocopy of an alleged marriage contract, and which is not even authenticated by the concerned Local Civil Registrar. In addition, there is no mark or stamp showing that said document was ever received by said office. Further, while the respondents also presented a Certificate of (Canonical) Marriage,²⁵ the petitioner asserts that the same is not the marriage license required under Articles 3 and 4 of the Family Code;²⁶ that said Certificate of (Canonical) Marriage only proves that a marriage ceremony actually transpired between Anastacio, Sr. and Fidela.²⁷

Moreover, the petitioner contends that the certificates of live birth of the respondents do not conclusively prove that they are legitimate children of Anastacio, Sr.

In their Comment,²⁸ the respondents reiterate the finding and ruling of the CA that the petitioner's argument has no leg to stand on considering that one's legitimacy can only be questioned in a direct action seasonably filed by a party who is related to the former either by consanguinity or affinity.²⁹

Thereupon, the resolution of this case rests upon this fundamental issue: whether or not the respondents are legal heirs of Silvestra.

²⁴ *Rollo*, p. 115.

²⁵ *Id.* at 119.

²⁶ ART. 3. The formal requisites of marriage are:

- (1) Authority of the solemnizing officer;
- (2) A valid marriage license except in the cases provided for in Chapter 2 of this Title; and
- (3) A marriage ceremony which takes place with the appearance of the contracting parties before the solemnizing officer and their personal declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age.

ART. 4. The absence of any of the essential or formal requisites shall render the marriage void *ab initio*, except as stated in Article 35(2).

A defect in any of the essential requisites shall render the marriage voidable as provided in Article 45.

An irregularity in the formal requisites shall not affect the validity of the marriage but the party or parties responsible for the irregularity shall be civilly, criminally and administratively liable.

²⁷ *Rollo*, pp. 15-17.

²⁸ *Id.* at 134-144.

²⁹ *Id.* at 141.

1

Ruling of the Court

The petition is bereft of merit.

While it is true that a person's legitimacy can only be questioned in a direct action seasonably filed by the proper party, as held in *Spouses Fidel v. Hon. CA, et al.*,³⁰ this Court however deems it necessary to pass upon the respondents' relationship to Silvestra so as to determine their legal rights to the subject property. Besides, the question of whether the respondents have the legal capacity to sue as alleged heirs of Silvestra was among the issues agreed upon by the parties in the pre-trial.

At first blush, the documents presented as proof of marriage between Anastacio, Sr. and Fidela, viz: (1) fax or photo copy of the marriage contract, and (2) the canonical certificate of marriage, cannot be used as legal basis to establish the fact of marriage without running afoul with the Rules on Evidence of the Revised Rules of Court. Rule 130, Section 3 of the Rules on Evidence provides that: "When the subject of the inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, x x x." Nevertheless, a reproduction of the original document can still be admitted as secondary evidence subject to certain requirements specified by law. In *Dantis v. Maghinang, Jr.*,³¹ it was held that:

A secondary evidence is admissible only upon compliance with Rule 130, Section 5, which states that: when the original has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated. Accordingly, the offeror of the secondary evidence is burdened to satisfactorily prove the predicates thereof, namely: (1) the execution or existence of the original; (2) the loss and destruction of the original or its non-production in court; and (3) the unavailability of the original is not due to bad faith on the part of the proponent/offeror. Proof of the due execution of the document and its subsequent loss would constitute the basis for the introduction of secondary evidence. x x x.³² (Citation omitted)

³⁰ 581 Phil. 169 (2008).

³¹ G.R. No. 191696, April 10, 2013, 695 SCRA 599.

³² Id. at 611.

1

On the other hand, a canonical certificate of marriage is not a public document. As early as in the case of *United States v. Evangelista*,³³ it has been settled that church registries of births, marriages, and deaths made subsequent to the promulgation of General Orders No. 68 and the passage of Act No. 190 are no longer public writings, nor are they kept by duly authorized public officials.³⁴ They are private writings and their authenticity must therefore be proved as are all other private writings in accordance with the rules of evidence.³⁵ Accordingly, since there is no showing that the authenticity and due execution of the canonical certificate of marriage of Anastacio, Sr. and Fidela was duly proven, it cannot be admitted in evidence.

Notwithstanding, it is well settled that other proofs can be offered to establish the fact of a solemnized marriage.³⁶ Jurisprudence teaches that the fact of marriage may be proven by relevant evidence other than the marriage certificate. Hence, even a person's birth certificate may be recognized as competent evidence of the marriage between his parents.³⁷

Thus, in order to prove their legitimate filiation, the respondents presented their respective Certificates of Live Birth issued by the National Statistics Office³⁸ where Fidela signed as the Informant in item no. 17 of both documents.

A perusal of said documents shows that the respondents were apparently born to the same parents — their father's name is *Anastacio Nator Macapaz*, while their mother's maiden name is *Fidela Overa Poblete*. In item no. 24 thereof where it asks: "24. DATE AND PLACE OF MARRIAGE OF PARENTS (*For legitimate birth*)" it was stated therein that respondents' parents were married on "May 25, 1955 in Alang-alang, Leyte."³⁹

The petitioner asserts that said documents do not conclusively prove the respondents' legitimate filiation, albeit, without offering any evidence to the contrary. The certificates of live birth contain no entry stating whether the respondents are of legitimate or illegitimate filiation, making said documents unreliable and unworthy of weight and value in the determination of the issue at hand.

³³ 29 Phil. 215 (1915).

³⁴ Id. at 221.

³⁵ *Cercado-Siga v. Cercado, Jr.*, G.R. No. 185374, March 11, 2015, 752 SCRA 514, 525-526.

³⁶ *Sarmiento v. CA*, 364 Phil. 613, 620 (1999).

³⁷ *Macua Vda. de Avenido v. Avenido*, G.R. No. 173540, January 22, 2014, 714 SCRA 447, 455, citing *Añonuevo, et al. v. Intestate Estate of Rodolfo G. Jalandoni*, 651 Phil. 137, 147 (2010).

³⁸ *Rollo*, pp. 120-121.

³⁹ Id.

Λ

Moreover, the petitioner states that in the respondents' certificates of live birth, only the signature of Fidela appears, and that they were not signed by Anastacio, Sr. She argues that the birth certificate must be signed by the father in order to be competent evidence to establish filiation, whether legitimate or illegitimate, invoking *Roces v. Local Civil Registrar of Manila*⁴⁰ where it was held that a birth certificate not signed by the alleged father is not competent evidence of paternity.⁴¹

The petitioner's contentions are untenable.

"A certificate of live birth is a public document that consists of entries (regarding the facts of birth) in public records (Civil Registry) made in the performance of a duty by a public officer (Civil Registrar)."⁴² Thus, being public documents, the respondents' certificates of live birth are presumed valid, and are *prima facie* evidence of the truth of the facts stated in them.⁴³

"*Prima facie* evidence is defined as evidence good and sufficient on its face. Such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense and which if not rebutted or contradicted, will remain sufficient."⁴⁴

The petitioner's assertion that the birth certificate must be signed by the father in order to be a competent evidence of legitimate filiation does not find support in law and jurisprudence. In fact, the petitioner's reliance on *Roces*⁴⁵ is misplaced considering that what was sought to be proved is the fact of paternity of an illegitimate child, and not legitimate filiation.

Verily, under Section 5 of Act No. 3753,⁴⁶ the declaration of *either* parent of the new-born legitimate child shall be sufficient for the registration of his birth in the civil register, and only in the registration of birth of an illegitimate child does the law require that the birth certificate be signed and sworn to jointly by the parents of the infant, or only by the mother if the father refuses to acknowledge

⁴⁰ 102 Phil. 1050 (1958).

⁴¹ *Rollo*, p. 17.

⁴² *Remiendo v. People*, 618 Phil. 273 (2009); *Republic of the Philippines v. T.A.N. Properties, Inc.*, 578 Phil. 441, 454 (2008), citing REVISED RULES ON EVIDENCE, Rule 132, Section 23; *People v. Delantar*, 543 Phil. 107, 127 (2007).

⁴³ Court Resolution dated July 13, 2011 in G.R. No. 190745 entitled "*Lourdes T. Buhay v. Letecia A. Buhay Dela-Peña*."

⁴⁴ *Tomas P. Tan, Jr. v. Jose G. Hosana*, G.R. No. 190846, February 3, 2016.

⁴⁵ *Supra* note 40.

⁴⁶ LAW ON REGISTRY OF CIVIL STATUS. Approved on November 26, 1930.

the child.

The pertinent portion of Section 5 of Act No. 3753 reads:

Sec. 5. *Registration and Certification of Birth.* – The declaration of the physician or midwife in attendance at the birth or, in default thereof, **the declaration of either parent of the newborn child, shall be sufficient for the registration of a birth in the civil register.** Such declaration shall be exempt from the documentary stamp tax and shall be sent to the local civil registrar not later than thirty days after the birth, by the physician, or midwife in attendance at the birth or by either parent of the newly born child.

In such declaration, the persons above mentioned shall certify to the following facts: (a) date and hour of birth; (b) sex and nationality of infant; (c) names, citizenship, and religion of parents or, in case the father is not known, of the mother alone; (d) civil status of parents; (e) place where the infant was born; (f) and such other data as may be required in the regulations to be issued.

x x x x

In case of an illegitimate child, the birth certificate shall be signed and sworn to jointly by the parents of the infant or only the mother if the father refuses. In the latter case, it shall not be permissible to state or reveal in the document the name of the father who refuses to acknowledge the child, or to give therein any information by which such father could be identified. x x x (Emphasis Ours)

Forsooth, the Court finds that the respondents' certificates of live birth were duly executed consistent with the provision of the law respecting the registration of birth of legitimate children. The fact that only the signatures of Fidela appear on said documents is of no moment because Fidela only signed as the *declarant* or *informant* of the respondents' fact of birth as legitimate children.

Nonetheless, the respondents' certificates of live birth also intimate that Anastacio, Sr. and Fidela had openly cohabited as husband and wife for a number of years, as a result of which they had two children—the second child, Anastacio, Jr. being born more than three years after their first child, Alicia. Verily, such fact is admissible proof to establish the validity of marriage. Court Resolution dated February 13, 2013 in G.R. No. 183262 entitled *Social Security System (SSS) v. Lourdes S. Enobiso*⁴⁷ had the occasion to state:

⁴⁷

<elibrary.judiciary.gov.ph/elibsearch> visited April 14, 2016.

Sarmiento v. CA is instructive anent the question of what other proofs can be offered to establish the fact of a solemnized marriage, viz:

In *Trinidad vs. Court of Appeals, et al.*, **this Court ruled that as proof of marriage may be presented:** a) testimony of a witness to the matrimony; b) **the couple's public and open cohabitation as husband and wife after the alleged wedlock;** c) the birth and baptismal certificate of children born during such union; and d) the mention of such nuptial in subsequent documents.⁴⁸ (Citations omitted and emphasis ours)

Moreover, in a catena of cases,⁴⁹ it has been held that, “[p]ersons dwelling together in apparent matrimony are presumed, in the absence of any counter presumption or evidence special to the case, to be in fact married. The reason is that such is the common order of society, and if the parties were not what they thus hold themselves out as being, they would be living in the constant violation of decency and of law. A presumption established by our Code of Civil Procedure is ‘that a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage.’ *Semper praesumitur pro matrimonio* – Always presume marriage.”⁵⁰

Furthermore, as the established period of cohabitation of Anastacio, Sr. and Fidela transpired way before the effectivity of the Family Code, the strong presumption accorded by then Article 220 of the Civil Code in favor of the validity of marriage cannot be disregarded. Thus:

Art. 220. In case of doubt, all presumptions favor the solidarity of the family. Thus, every intendment of law or facts leans toward the validity of marriage, the indissolubility of the marriage bonds, the legitimacy of children, the community of property during marriage, the authority of parents over their children, and the validity of defense for any member of the family in case of unlawful aggression.

WHEREFORE, premises considered, the petition is hereby **DENIED**. The Decision dated October 20, 2009 and Resolution dated April 5, 2010 of the Court of Appeals in CA-G.R. CV No. 90907 are **AFFIRMED**.

⁴⁸ Id.

⁴⁹ *Social Security System (SSS) v. Lourdes S. Enobiso*, G.R. No. 183262, February 13, 2013, supra note 47; *Sevilla v. Cardenas*, 529 Phil. 419, 435 (2006); *Vda. de Jacob v. CA*, 371 Phil. 693, 708-709 (1999), citing *Perido v. Perido*, 159 Phil. 710, 716-717 (1975).

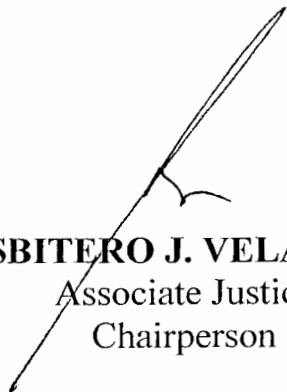
⁵⁰ Id.

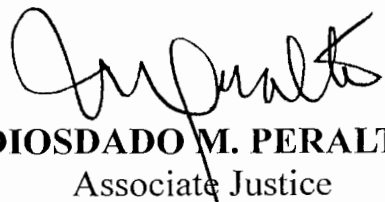
1

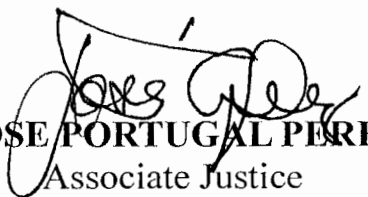
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

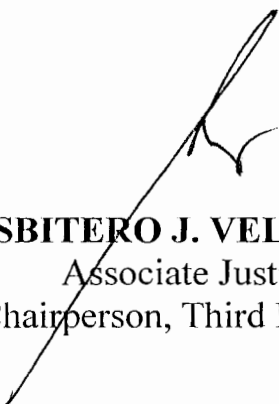

DIOSDADO M. PERALTA
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

(On official leave)
FRANCIS H. JARDELEZA
Associate Justice

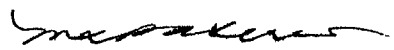
ATTESTATION

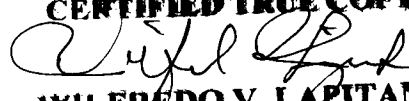
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
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.


MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUN 27 2016

