



Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
 WILFREDO V. LAPITAN  
 Division Clerk of Court  
 Third Division  
 JUN 16 2016

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 207811**

**Present:**

VELASCO, JR., J., *Chairperson,*  
 PERALTA,  
 PEREZ,  
 MENDOZA,\* and  
 REYES, JJ.

- versus -

**DELIA MOLINA y CABRAL,**  
 Accused-Appellant.

**Promulgated:**

June 1, 2016

x-----*Wilfredo V. Lapitan*-----x

**DECISION**

**PERALTA, J.:**

This is an appeal from the Decision<sup>1</sup> dated December 14, 2012 of the Court of Appeals (CA) affirming with modification the Decision<sup>2</sup> dated May 31, 2010 of the Regional Trial Court (RTC), Branch 143, Makati City, in two cases, Criminal Case No. 07-1399 and Criminal Case No. 07-3108 against appellant Delia Molina for the crimes of illegal recruitment in a large scale and illegal recruitment, respectively.

The facts follow.

\* Designated Additional Member in lieu of Associate Justice Jose Catral Mendoza, per Raffle dated October 1, 2014.

<sup>1</sup> Penned by Associate Justice Nina G. Antonio-Valenzuela, with Associate Justices Isaias P. Diccican and Michael P. Elbinias concurring; *rollo*, pp. 2-25.

<sup>2</sup> Penned by Presiding Judge Zenaida T. Galapate-Laguilles, CA *rollo*, pp. 65-77.

*N*

Three informations were filed against appellant alleging the following:

In Criminal Case No. 07-1399 for illegal recruitment in a large scale:

That in or about and sometime between the months of April 2006 and June 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being authorized by the Department of Labor and Employment to recruit workers for overseas employment, did then and there willfully, unlawfully and feloniously recruit and promise complainant, namely:

Anthony Galiste:	₱75,000.00
Romulo Nones:	₱75,000.00
Elisa Escobar:	₱75,000.00
Geraldine Cariño:	₱75,000.00
Diony Aragaon:	₱75,000.00
Maribel Rosimo:	₱75,000.00
Gilbert Rosimo:	₱75,000.00
Eric Valdez:	₱75,000.00

for overseas job placement and in consideration of said promise, said complainants paid and delivered to accused sums of money as placement/processing fees and having failed to actually deploy said complainants without any valid reason and without the latter's fault, the said accused failed to reimburse the expenses incurred by the said private complainants in connection with the documentation and processing of their papers for purposes of their deployment, to the damage and prejudice of the above-named complainants.

Contrary to law.

In Criminal Case No. 07-3108 for illegal recruitment in a large scale with another accused Vincent Zulueta (the case against the latter was sent to the archives as he was at large):

That in or about the months of April and May 2006, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding one another, did then and there willfully, unlawfully, and feloniously recruit and promise employment/job placement to RICHARD COLLAMAR, CAROL COLLAMAR, and CECILLE M. BARTOLOME as factory workers in Korea, and in consideration of said promise collected from complainants the total amount of ₱225,000.00 as placement/processing fees and both accused despite receipt of the fees from complainants failed to actually deploy said complainants



without valid reasons and without the workers' fault, and despite demand to reimburse expenses to said complainants, thus, in large scale amounting to economic sabotage.

Contrary to law.

In Criminal Case No. 08-066 for illegal recruitment:

That in or about the period from April to June 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then authorized by the Philippine Overseas Employment Administration to recruit workers for overseas employment, did then and there willfully, unlawfully and feloniously recruit and promise complainants ROSEMARIE A. RESPUETO and LEO JOHN M. ALDAY overseas employment as factory workers in South Korea, and in consideration of said promise, complainants paid and delivered to accused sums of money as placement/processing fees, and having failed to actually deploy complainants without any valid reason and without the latter's fault, the accused failed to reimburse the expenses incurred by complainants in connection with the documentation and processing of their papers for purposes of deployment, in violation of the aforecited law.

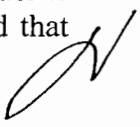
Contrary to law.

At the respective arraignment of the cases mentioned above, appellant pleaded not guilty to each of the charges. Thereafter, trial on the merits ensued.

The following are the factual findings of the CA based on the trial conducted in the RTC:

Re: Criminal Case Number 07-1399.

The following persons testified for the prosecution: Elisa Escobar (hereafter, "Escobar"); Geraldine Cariño (hereafter, "Cariño"); and Diony Aragon (hereafter, "Aragon"). The evidence for the Prosecution is summarized thus: sometime in April 2006, Escobar went to the office of the Southern Cohabite Landbase Management Corporation (hereafter, "SCLMC") located at Makati City to meet Zulueta, an agent of the SCLMC. Zulueta introduced Escobar to accused-appellant. Accused-appellant told Escobar she will be employed as a factory worker in Korea within 3 months from payment of the ₱75,000.00 placement fee. Escobar tendered the said amount to Zulueta at the SCLMC office evidenced by the cash voucher dated 28 April 2006 signed by SCLAMCOR (Southern Cotabato Landbase Management Corporation). The cash voucher acknowledged receipt of the ₱75,000.00 from Escobar. It also stated that



the ₱75,000.00 was for payment of the processing fee for Korea. A month after paying the placement fee, SCLMC informed Escobar she had to undergo Korean Language Training. Escobar complied. When Escobar did not hear from accused-appellant for another month, she decided to withdraw her placement fee. Accused-appellant failed to return her money, thus Escobar filed the suit for illegal recruitment.

Cariño testified she came to know accused-appellant sometime in April 2006, when Zulueta brought her to the office of the SCLMC at Makati City. Zulueta and accused-appellant told Cariño she will be employed as a factory worker in Korea within 3 months from payment of the ₱75,000.00 placement fee. Cariño tendered the said amount to Zulueta at the SCLMC office evidenced by the cash voucher dated 28 April 2006 signed by SCLAMCOR. The cash voucher acknowledged receipt of the ₱75,000.00 from Cariño. It also stated that the ₱75,000.00 was for payment of the processing fee for Korea. Accused-appellant was beside Zulueta when the latter gave the cash voucher to Cariño. Cariño was then asked to submit a medical examination and undergo Korean Language Training to expedite her application. Three months after complying with the requirements, Cariño was still not deployed for employment abroad. Cariño then filed this case against accused-appellant.

Sometime in 2006, Aragon was convinced by his friends to apply at the SCLMC. Zulueta brought him to the SCLMC office. Zulueta introduced Aragon to the accused-appellant. Accused-appellant told Aragon he will be employed as a factory worker in Korea within 3 months from payment of the ₱75,000.00 placement fee. Aragon tendered the said amount to Zulueta at the SCLMC office evidenced by the cash voucher acknowledged receipt of the ₱75,000.00 from Aragon. It also stated that the ₱75,000.00 was for payment of the processing fee for Korea. Three months after paying the placement fee, Aragon was not deployed for Korea. Aragon then asked accused-appellant to return his ₱75,000.00. Accused-appellant told Aragon she would give him ₱50,000.00, while Zulueta will give him ₱25,000.00. Aragon filed the case because accused-appellant failed to return the ₱75,000.00.<sup>3</sup>

Re: Criminal Case Number 07-3108

Cecille Bartolome (hereafter, "Bartolome") testified for the prosecution. The evidence of the Prosecution is summarized, thus: Bartolome met accused-appellant at the SCLMC office on 27 April 2006. In the office, accused-appellant and Zulueta told Bartolome and her companions (namely Carol Collamar, Sosen Fernandez, and Michelle Fernandez) they would be deployed to Korea as factory workers within three months from payment of the ₱75,000.00 placement fee each. Bartolome tendered the said amount to Zulueta at the SCLMC office evidenced by the cash voucher acknowledged receipt of the ₱75,000.00 from Bartolome. It also stated that the ₱75,000.00 was for payment of the processing fee for Korea. In July 2006, Bartolome and her companions went back to the SCLMC office to inquire about the progress of their application. Accused-appellant told Bartolome to wait. Bartolome was still not employed by November 2006, so she decided to withdraw her money from accused-appellant. Accused-appellant did not return the ₱75,000.00,

<sup>3</sup> Rollo, pp. 6-8.



so Bartolome reported the matter to the National Bureau of Investigation (hereafter, "NBI"). The NBI arrested accused-appellant on 5 January 2007. Accused-appellant issued PNB check number 7381 in favor of Bartolome. The check bounced for being drawn against a closed account.<sup>4</sup>

Re: Criminal Case Number 08-066

Leo John Alday (hereafter, "Alday") and Rosemarie Respueto (hereafter, "Respueto") testified for the Prosecution. The evidence of the Prosecution is summarized, thus: sometime in April 2006, Alday went to the SCLMC to look for employment abroad. At the SCLMC office, Alday met with Rolando Salilin (hereafter, "Salilin"), an agent of the SCLMC. Salilin promised Alday he will be employed as factory worker in Korea with a monthly salary of ₱80,000.00. Alday paid the placement fee of ₱75,000.00. A month after paying the placement fee, Alday was still not deployed for employment abroad. Alday thus filed this case against accused-appellant.

Respueto testified in May 2006, he went to the SCLMC to look for employment abroad. At the SCLMC office, Respueto met with Loretta Gasi (hereafter, "Gasi"), an agent of the SCLMC. Gasi promised Respueto she will be employed as factory worker in Korea with a monthly salary of ₱80,000.00. Respueto paid the placement fee of ₱90,000.00. Two months after paying the placement fee, Respueto was still not deployed for employment abroad. In August 2006, Respueto decided to withdraw her money. Respueto filed this case when accused-appellant failed to return her money.<sup>5</sup>

On the other hand, accused-appellant denied all the allegations against her and presented the following defense:

The SCLMC is a recruitment agency, registered with the Securities and Exchange Commission (*SEC*) and the Philippine Overseas Employment Administration (*POEA*). Accused-appellant is the President of the SCLMC. The SCLMC employed only three staff members, *i.e.* Amelita Plabay (secretary), Pedrito and Leonora (liaison officers). Zulueta is not connected with the SCLMC but he was at the SCLMC office because he tried to convince accused-appellant to be a distributor of Presense Green Tea. Accused-appellant denied all the allegations against her. She denied meeting all of the private complainants prior to the filing of the case. She added SCLMC could not have conducted recruitment activities in April and May 2006 because its license to conduct business was temporarily suspended by the POEA during that period. The suspension was lifted on July 31, 2006. Accused-appellant surmised private complainants filed cases against her upon the prodding of Alan Basa. She testified when she was arrested by the NBI, Alan Basa asked her for ₱300,000.00, in exchange for the dropping of the complaints against her. When accused-appellant refused to give Alan

---

<sup>4</sup> *Id.* at 8-9.

<sup>5</sup> *Id.* at 9-10.



Basa the money, the latter made sure complainants filed the cases against her.

The RTC, on May 31, 2010, promulgated the Decision convicting accused-appellant in Criminal Case No. 07-1399 for large scale illegal recruitment and Criminal Case Number 07-3108 for illegal recruitment. Accused-appellant was, however, acquitted in Criminal Case No. 08-066. The dispositive portion of the said Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused DELIA MOLINA Y CABRA GUILTY beyond reasonable doubt of the crimes charged and she is hereby sentenced as follows:

a. In Crim. Case No. 07-1399, she is sentenced to suffer life imprisonment, to pay a fine of Five Hundred Thousand Pesos (Php 500,000.00), without subsidiary imprisonment in case of insolvency, and to indemnify the offended party Elisa Escobar, Geraldine Cariño, and Diony Castillo Aragon the amount of Seventy-Five Thousand Pesos (Php 75,000.00) each as actual damages and the costs;

b. In Criminal Case No. 07-3108, to suffer the indeterminate penalty of SIX (6) MONTHS and ONE (1) DAY of *prision correccional*, as minimum, to SEVEN (7) YEARS, EIGHT (8) MONTHS and TWENTY-ONE (21) DAYS of *prision mayor* as maximum and to indemnify the offended party Cecille Bartolome the amount of Seventy-Five Thousand Pesos (Php 75,000.00) and the costs;

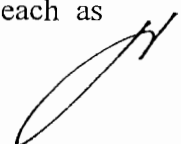
In Criminal Case No. 08-066, she is hereby ACQUITTED for insufficiency of evidence.

SO ORDERED.

Accused-appellant filed an appeal before the CA and the latter, on December 14, 2012, rendered a Decision affirming the RTC with modification, the dispositive portion of which reads, as follows:

WHEREFORE, the assailed Decision convicting accused-appellant in Criminal Case Number 07-1399 (for large scale illegal recruitment) and Criminal Case Number 07-3108 (for illegal recruitment) is AFFIRMED with Modification:

1. Criminal Case Number 07-1399 (for large scale illegal recruitment): accused-appellant is sentenced to life imprisonment, pay a fine of ₱500,000.00 without subsidiary imprisonment in case of insolvency, and to indemnify the offended party Elisa Escobar, Geraldine Cariño, and Fiony Castillo Aragon the amount of ₱75,000.00 each as actual damages, and the costs;



2. In Criminal Case Number 07-3108 (for illegal recruitment), accused-appellant is sentenced to imprisonment of six (6) years and one (1) day as minimum to 12 years as maximum, and to pay a fine of ₱200,000.00 without subsidiary imprisonment in case of insolvency, and to indemnify Bartolome the amount of ₱75,000.00, and the costs.

SO ORDERED.

Hence, the present appeal.

Accused-appellant insists that the prosecution failed to prove the elements of the crime charged and that her guilt has not been proven beyond reasonable doubt.

The appeal must fail.

All the elements of the crime of illegal recruitment in large scale are present, namely: (1) the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers; (2) the offender undertakes any of the activities within the meaning of "recruitment and placement" under Article 13 (b)<sup>6</sup> of the Labor Code, or any of the prohibited practices enumerated under Article 34 of the said Code (now Section 6 of R.A. 8042); and (3) the offender committed the same against three (3) or more persons, individually or as a group. More importantly, all the said elements have been established beyond reasonable doubt.

It was accused-appellant herself who testified that SCLMC did not have authority to operate its business on April and May, 2006, covering the dates that are alleged in the Informations filed against her, proving that the first element of the crime is present. She claimed the SCLMC's license was temporarily suspended by the POEA during the alleged date when the crimes were committed and that the suspension was lifted on July 31, 2006. Accused-appellant further admitted that the SCLMC had no authority to recruit workers for Korea because it had no job order to do so, thus:

Atty. Tacorda: I noticed, Madam Witness, that this Job Order are all for Malaysia. Do you have any job order for Korea?

Witness: We don't have Job Order from Korea, ma'am.

Atty. Tacorda: Have you ever had job order from Korea before July 2006?

---

<sup>6</sup> [A]ny act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not; Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment or placement.

Witness: We don't have job order from Korea because only 7 agencies are allowed to deploy workers to Korea.

Atty. Tacorda: So are you saying that Southern Cotabato Landbase Management Corporation is not allowed to recruit workers from Korea for purposes of overseas employment?

Witness: Yes, ma'am.<sup>7</sup>

Without any authority, accused-appellant still engaged in recruitment activities by offering and promising jobs, and collecting placement fees as testified to by private complainants Escobar, Cariño and Aragon.<sup>8</sup> Thus, the second element of the crime is present. Article 13, par. (b) of the Labor Code, reads as follows:

(b) "Recruitment and placement" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referrals, contract services, promising and advertising for employment locally or abroad, whether for profit or not: Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

In this case, the prosecution was able to prove that accused-appellant was engaged in the recruitment and placement of the private complainant as the accused was the one who told the private complainants that they will be sent to Korea as factory workers within three months from payment of the placement fees and that the placement fees were made in the office of the SCLMC in the presence of the accused-appellant or on her instruction.

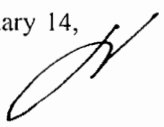
Anent the third element, accused-appellant committed the illegal recruitment against three or more persons, namely, Anthony Galiste, Romulo Nones, Elisa Escobar, Geraldine Cariño, Diony Aragon, Maribel Rosimo, Gilbert Rosimo and Eric Valdez.

Petitioner was also properly found guilty of the crime of simple illegal recruitment, there being one complainant and the concurrence of the two essential elements of illegal recruitment, to wit:

(a) the accused-appellant had no valid license or authority required by law to enable her to lawfully engage in recruitment and placement of workers per her testimony that SCLMC did not have authority to operate its business on April and May 2006 as its license was temporarily

<sup>7</sup> TSN, January 25, 2010, pp. 53-54.

<sup>8</sup> TSN, December 10, 2007, pp. 8-15; TSN, December 10, 2007, pp. 35-44; and TSN, January 14, 2008, pp. 4-15.





suspended by the POEA at that particular time.<sup>9</sup> Accused-appellant further testified that SCLMC had no authority to recruit workers for Korea because it had no job order for that purpose.<sup>10</sup>

(b) the accused-appellant engaged in recruitment and placement of private complainant Bartolome when she told the latter that she will be sent to Korea as a factory worker after payment of the placement fee<sup>11</sup> which private complainant Bartolome paid in the office of the SCLMC in the presence of accused-appellant.<sup>12</sup>

Furthermore, it is worthy to emphasize that under Section 6<sup>13</sup> of

<sup>9</sup> TSN, January 25, 2010, pp. 43-52.

<sup>10</sup> TSN, January 25, 2010, pp. 53-54.

<sup>11</sup> TSN, March 10, 2008, p. 35.

<sup>12</sup> TSN, March 10, 2008, pp. 36-39.

<sup>13</sup> Sec. 6. DEFINITIONS. - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and includes referring, contact services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-license or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines. Provided, that such non-license or non-holder, who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any persons, whether a non-licensee, non-holder, licensee or holder of authority.

(a) To charge or accept directly or indirectly any amount greater than the specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay any amount greater than that actually received by him as a loan or advance;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;

(c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;

(d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;

(e) To influence or attempt to influence any persons or entity not to employ any worker who has not applied for employment through his agency;

(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to dignity of the Republic of the Philippines;

(g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;

(h) To fail to submit reports on the status of employment, placement vacancies, remittances of foreign exchange earnings, separations from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;

(i) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;

(j) For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;

(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;

(l) Failure to actually deploy without valid reasons as determined by the Department of Labor and Employment; and

(m) Failure to reimburse expenses incurred by the workers in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered as offense involving economic sabotage.

Illegal recruitment is deemed committed by a syndicate carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed

Republic Act No. 8042, illegal recruitment is defined as including any person, whether a non-licensee, non-holder, licensee or holder of authority. Thus, the contention of accused-appellant that she was a holder of a license to operate as a recruiter during the alleged period when the crimes were committed does not matter because she was still performing an act considered to be an illegal recruitment by failing to reimburse the expenses incurred by the private complainants. Under Section 6 (m) of R.A. No. 8042, failure to reimburse expenses incurred by the workers in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault, is considered as performing illegal recruitment.

It must also be noted that accused-appellant's defense of denial cannot overcome the positive testimonies of the witnesses presented by the prosecution. As is well-settled in this jurisdiction, greater weight is given to the positive identification of the accused by the prosecution witnesses than the accused's denial and explanation concerning the commission of the crime.<sup>14</sup>

The CA was also correct in modifying the penalty imposed by the RTC in Criminal Case No. 07-3108. The RTC mistakenly imposed the indeterminate penalty of six (6) months and one (1) day of *prision correccional*, as minimum, to seven (7) years, eight (8) months and twenty-one (21) days of *prision mayor* as maximum. Under Section 7 (a) of R.A. No. 8042, a person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years, and a fine of not less than two hundred thousand pesos (₱200,000.00) nor more than five hundred thousand pesos (₱500,000.00). Thus, the penalty of imprisonment of six (6) years and one (1) day, as minimum, to twelve (12) years as maximum, and the payment of a fine of two hundred thousand pesos (₱200,000.00) as imposed by the CA is more in accordance with the law penalizing the crime of simple illegal recruitment.

**WHEREFORE**, the appeal is **DISMISSED** and the CA Decision dated December 14, 2012 of the Court of Appeals, affirming with modification the Decision dated May 31, 2010 of the Regional Trial Court, Branch 143, Makati City, in Criminal Case No. 07-1399 and Criminal Case No. 07-3108, against appellant Delia Molina for the crimes of illegal

---

against three (3) or more persons individually or as a group.

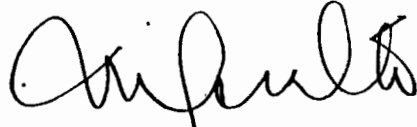
The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having control, management or direction of their business shall be liable.

<sup>14</sup> *People v. Gharbia*, 369 Phil. 942-953 (1999).

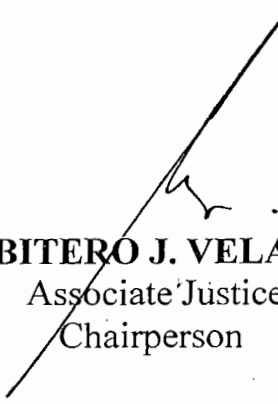


recruitment in a large scale and illegal recruitment, respectively, is **AFFIRMED.**

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson


  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
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**

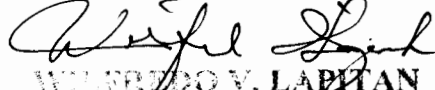
Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**

Chief Justice

CERTIFIED TRUE COPY



**WILFREDO V. LABITAN**  
Division Clerk of Court  
Third Division

JUN 16 2016