



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

RICKY ANYAYAHAN y G.R. No. 229787
TARONAS,

Petitioner,

Present:

- versus -

PEOPLE OF THE
PHILIPPINES,

Respondent.

CARPIO, J., Chairperson,
 PERLAS-BERNABE,
 JARDELEZA,*
 CAGUIOA, and
 REYES, JR., JJ.

Promulgated:

20 JUN 2018

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DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*¹ filed by petitioner Ricky Anyayahan y Taronas (Anyayahan) assailing the Decision² dated November 29, 2016 and the Resolution³ dated January 27, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 38171, which affirmed the Decision⁴ dated October 9, 2015 of the Regional Trial Court of Marikina City, Branch 273 (RTC) in Criminal Case Nos. 2013-4119-D-MK and 2013-4120-D-MK finding Anyayahan guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165,⁵ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

* Designated Additional Member per Raffle dated June 4, 2018.

¹ *Rollo*, pp.13-34.

² *Id.* at 38-60. Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela concurring.

³ *Id.* at 62.

⁴ *Id.* at 89-104. Penned by Presiding Judge Romeo Dizon Tagra.

⁵ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

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The Facts

The instant case stemmed from two (2) Informations⁶ filed before the RTC charging Anyayahan of the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165, the accusatory portions of which state:

**Criminal Case No. 2013-4119-D-MK
(For violation of Section 5, Article II of RA 9165)**

That on or about the 9th day of January 2013, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and knowingly sell, deliver and give away without authority from law to SP01 BADALF V. MONTE of the Station Anti-Illegal Drugs Special Operations Task Group (SAID-SOTG) of the Marikina City, posing as a buyer, one (1) small heat-sealed plastic sachet containing white crystalline substance with marking "RTA-01-09-13 (1)" and recorded net weight of 0.05 gram, which gave positive result to the test for *Methamphetamine Hydrochloride*, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁷

**Criminal Case No. 2013-4120-D-MK
(For violation of Section 11, Article II of RA 9165)**

That on or about the 9th day of January 2013, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, knowingly and unlawfully have in his possession, direct custody and control one (1) small heat-sealed transparent plastic sachet with marking "RTA-01-09-13 (2)" and recorded net weight of 0.05 grams, of white crystalline substance, which gave positive result to the test for *Methamphetamine Hydrochloride*, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁸

The prosecution alleged that at around 6:00 in the evening of January 9, 2013, the Station Anti-Illegal Drugs Special Operations Task Group (SAID-SOTG), Philippine National Police (PNP) in Marikina City received a report from a confidential informant that a certain alias "Ricky," later identified as Anyayahan, was selling drugs in his house along Tanguile Street, Barangay Marikina Heights, Marikina City.⁹ In response thereto, a buy-bust team was formed with Senior Police Officer (SPO) 1 Arnel Manuel as the

⁶ Both dated January 11, 2013. Records, pp. 2 and 6.

⁷ Id. at 2.

⁸ Id. at 6.

⁹ *Rollio*, p. 39.

team leader and SPO1 Badalf V. Monte (SPO1 Monte) as the designated poseur-buyer, among others. Thereafter, the buy-bust team, accompanied by the informant, proceeded to the target area where they saw Anyayahan. SPO1 Monte and the informant approached Anyayahan, and the informant introduced SPO1 Monte as the buyer of *shabu* worth ₱300.00. SPO1 Monte then handed over three (3) marked one hundred-peso (₱100.00) bills as payment, after which, Anyayahan told SPO1 Monte to wait as he entered his house.¹⁰ Upon his return, Anyayahan pulled out from his right pocket two (2) small pieces of transparent plastic sachet containing white crystalline substance, and gave one (1) sachet to SPO1 Monte, while he returned the other sachet inside his pocket. After inspecting the contents, SPO1 Monte placed his arm around the shoulders of Anyayahan as he waved his other hand which was the pre-arranged signal. He then introduced himself as a police officer, arrested Anyayahan, and ordered the latter to bring out the contents of his pocket from where the other plastic sachet of suspected *shabu*, together with the buy-bust money, was recovered.¹¹ Upon confiscation, marking, and photography conducted at the place of arrest, an inventory was prepared¹² which was later on signed by *Kagawad* Ernie Arigue and a media representative named Edwin Moreno. Thereafter, SPO1 Monte brought Anyayahan to the SAID-SOTG, PNP where he gave the items to Police Officer (PO) 1 Rey G. Diola of the Eastern Police District Crime Laboratory Office, who turned over the same for examination to Forensic Chemist Police Senior Inspector (PSI) Margarita M. Libres (PSI Libres).¹³ PSI Libres subsequently confirmed¹⁴ that the substance inside the two (2) confiscated plastic sachets, weighing 0.05 gram each, tested positive for *Methamphetamine Hydrochloride* or *shabu*, a dangerous drug.¹⁵

For his part, Anyayahan denied the charges against him, narrating that at around 7:30 in the evening of the same date, he and his live-in partner, Dina Gonzales (Dina), were walking to a store when they passed by four (4) men, one of whom asked if he was “Ricky.” Anyayahan answered “[y]es,” and as they were about to cross the street, one of them suddenly grabbed his collar, introduced themselves as policemen and frisked him. He was thereafter brought to Barangay Tanguile Taas where the said policemen brought out three (3) pieces of ₱100.00 bills and two (2) plastic sachets of *shabu* which were allegedly recovered from him.¹⁶

¹⁰ Id. at 40.

¹¹ See id.

¹² See Inventory of Evidence; records, p. 20.

¹³ See *rollo*, pp. 40-41.

¹⁴ See Physical Science Report No. D-005-13E; records, p. 30.

¹⁵ *Rollo*, p. 41.

¹⁶ See id. at 41-42.

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The RTC Ruling

In a Decision¹⁷ dated October 9, 2015, the RTC ruled as follows: (a) in Criminal Case No. 2013-4119-D-MK, Anyayahan was acquitted for Illegal Sale of Dangerous Drugs and instead, convicted for Illegal Possession of 0.05 gram of *shabu* under Section 11, Article II of RA 9165; (b) in Criminal Case No. 2013-4120-D-MK, Anyayahan was found guilty beyond reasonable doubt of violating Section 11, Article II of RA 9165. Accordingly, he was sentenced to suffer for each criminal case the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, eight (8) months, and one (1) day, as maximum, and to pay a fine of ₱300,000.00 without subsidiary imprisonment in case of insolvency.¹⁸

In acquitting Anyayahan of Illegal Sale of Dangerous Drugs, the RTC held that the prosecution failed to prove the element of consideration under Section 5, Article II of RA 9165, noting that SPO1 Monte was unclear as to when he handed the buy-bust money to Anyayahan. Neither were markings placed thereon, nor did SPO1 Monte remember the serial numbers.¹⁹ Likewise, the prosecution failed to produce the original copy of the said money and merely offered as evidence its photocopy.²⁰ Notwithstanding these findings, the RTC convicted Anyayahan for Illegal Possession of Dangerous Drugs for both the criminal cases, since all the elements of the said crime were established and it was clear that Anyayahan had in his custody two (2) sachets of *shabu* – one used in the alleged sale, and the other recovered from his pocket after arrest.²¹

Furthermore, the RTC declared that the integrity and evidentiary value of the confiscated items were properly preserved, and that there was no break in the chain of custody from the time of their seizure by SPO1 Monte until their turnover to the PNP Crime Laboratory.²²

Aggrieved, Anyayahan appealed²³ to the CA.

The CA Ruling

In a Decision²⁴ dated November 29, 2016, the CA affirmed Anyayahan's conviction for the crimes charged in the two (2) criminal cases.

¹⁷ Id. at 89-104.

¹⁸ Id. at 103.

¹⁹ See id. at 97-99.

²⁰ Id. at 99.

²¹ See id. at 100.

²² See id. at 101-103.

²³ See Notice of Appeal dated October 23, 2015; CA *rollo*, pp. 36-37.

²⁴ *Rollo*, pp. 38-60.

It ruled that all the essential elements of Illegal Possession of Dangerous Drugs were duly proven by the prosecution through SPO1 Monte's detailed narration of the incident.²⁵ In addition, the integrity and evidentiary value of the confiscated drugs were not compromised, as their whereabouts were accounted for.²⁶ On the other hand, Anyayahan's defense of frame-up remained unsupported and failed to overcome the categorical and positive testimonies of the prosecution's witnesses.²⁷

Anyayahan filed a motion for reconsideration,²⁸ which was however denied by the CA in a Resolution²⁹ dated January 27, 2017.

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Anyayahan's conviction for Illegal Possession of Dangerous Drugs.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.³⁰ "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."³¹

In this case, Anyayahan was charged with the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11, Article II of RA 9165. Notably, in order to properly secure the conviction of an accused charged with this offense, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such

²⁵ See *id.* at 47-55.

²⁶ See *id.* at 58.

²⁷ See *id.*

²⁸ Dated January 3, 2017. *Id.* at 126-137.

²⁹ *Id.* at 62.

³⁰ See *People v. Dahii*, 750 Phil. 212, 225 (2015).

³¹ *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521; citation omitted.

possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.³²

Besides, case law states that the identity of the prohibited drug must be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Thus, in order to obviate any unnecessary doubt on its identity, the prosecution has to show an unbroken chain of custody over the same and account for each link from the moment of seizure up to its presentation in court as evidence of the crime.³³

Section 21, Article II of RA 9165 outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.³⁴ Under the said section, prior to its amendment by RA 10640,³⁵ the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph of the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official** who shall be

³² *People v. Bic*, 753 Phil. 730, 736 (2015); citation omitted.

³³ See *People v. Viterbo*, 739 Phil. 593, 601 (2014).

³⁴ *People v. Sumili*, 753 Phil. 342, 349-350 (2015).

³⁵ Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,'" approved on July 15, 2014, Section 1 of which states:

Section 1. Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," is hereby amended to read as follows:

Sec. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

x x x x

required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.³⁶ In the case of *People v. Mendoza*,³⁷ the Court stressed that “**[w]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, ‘planting’ or contamination of the evidence that had tainted the buy-busts conducted under the regime of [RA] 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.** Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody.”³⁸

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible.³⁹ In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640⁴⁰ – provide that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21, Article II of RA 9165 – under justifiable grounds – will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.**⁴¹ In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II of RA 9165 and its IRR does not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.⁴² In *People v. Almorfe*,⁴³ **the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.**⁴⁴ Also, in *People v. De Guzman*,⁴⁵ it was emphasized that **the justifiable ground for non-compliance must be proven as a fact, because**

³⁶ See Section 21 (1) and (2), Article II of RA 9165.

³⁷ 736 Phil. 749 (2014).

³⁸ *Id.* at 764; emphases and underscoring supplied.

³⁹ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

⁴⁰ See Section 1 of RA 10640, amending Section 21, Article II of RA 9165.

⁴¹ See Section 21 (a), Article II of the IRR of RA 9165. See also *People v. Ceralde*, G.R. No. 228894, August 7, 2017.

⁴² See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252; citation omitted.

⁴³ 631 Phil. 51 (2010).

⁴⁴ *Id.* at 60.

⁴⁵ 630 Phil. 637 (2010).

the Court cannot presume what these grounds are or that they even exist.⁴⁶

In this case, the Court finds that the police officers unjustifiably deviated from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the items purportedly seized from Anyayahan.

Records failed to show that SPO1 Monte conducted the requisite inventory in the presence of an elected official, a media representative, and a DOJ representative. In his testimony during trial, he admitted that it was only after he had finished the Inventory of Evidence⁴⁷ that he proceeded to the Barangay Hall and procured the signatures of the barangay official and the media representative, without, however, mentioning the presence of any representative from the DOJ:

[Prosecutor Linda Adame-Conos (Pros. Conos)] Q: Mr. Witness, what point in time did these witnesses Kagawad Ernie Adigue and Edwin Moreno affixed [sic] their signatures?

[SPO1 Monte] A: At the time I finished the Inventory of Evidence SPO1 Manuel Arnel told me at that time no one is available at the Barangay Hall of Marikina Heights because they attended the SOCA at the Marikina Sports Center so they decided to proceed at the Barangay Hall for the barangay officials.

Q: How long a time did you stay at the Barangay Hall **waiting for these officials for them to affix their signatures?**

A: More or less, Ma'am, an hour.

x x x x⁴⁸ (Emphasis and underscoring supplied)

Q: Mr. Witness, when you went to the Barangay Hall of Barangay Marikina Heights and waited for the arrival of the barangay officials, who were in possession of the specimen again?

A: It is with me, Ma'am.

Q: After the witnesses affixed their signatures as appearing in the Inventory of Evidence, what happened next, if you remember?

A: After we presented to the media representative the Inventory of Evidence and after he signed it we immediately brought the arrested person to the Amang Rodriguez Hospital for medical check-up.

x x x x⁴⁹ (Underscoring supplied)

⁴⁶ Id. at 649

⁴⁷ Records, p. 33.

⁴⁸ TSN, February 20, 2014, pp. 34-35.

⁴⁹ TSN, February 20, 2014, pp. 37-38.

In fact, as may be gleaned above, SPO1 Monte had to wait for, more or less, an hour for the barangay officials to arrive from the Marikina Sports Center in order to have them sign the said documents at the Barangay Hall.⁵⁰

Section 21, Article II of RA 9165 requires the apprehending team, after seizure and confiscation, to immediately **conduct a physical inventory and photograph** the same **in the presence** of the accused, representatives from the media and the DOJ, and any elected public official who shall be required to sign the copies of the inventory and be given copies thereof. The mere production of the inventory, without the necessary personalities **physically witnessing** the proceeding, fails to approximate compliance with the mandatory procedure under the law,⁵¹ as in this case.

Furthermore, the said witnesses were likewise absent during the required photography of the seized drugs. SPO1 Monte himself admitted that photographs were taken at the crime scene and immediately upon the arrival of the police officers (not the barangay official and media representative) at the Barangay Hall:

[Pros. Conos] Q: Mr. Witness, what else were prepared at the crime scene, if you remember?

[SPO1 Monte] A: The photographs of PO2 Bartolome Rosales.

Q: Where was it taken, Mr. Witness?

A: At the place of operation and at the Barangay Hall of Barangay Marikina Heights.⁵²

From the foregoing testimony, it can be inferred that these photographs were taken even before the arrival of the barangay officials and the media representative, contrary to the procedure set above.

It is well-settled that the procedure in Section 21, Article II of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality.⁵³ While non-compliance is allowed, the same ought to be justified. Therefore, it must be shown that earnest efforts were exerted by the police officers involved to comply with the mandated procedure as to convince the Court that the attempt to comply was reasonable under the given circumstances. Since this was not the case here, the Court is impelled to conclude that there has been an unjustified breach of procedure

⁵⁰ See TSN, February 20, 2014, p. 34.

⁵¹ See *People v. Dela Rosa*, G.R. No. 230228, December 13, 2017, *Lescano v. People*, G.R. No. 214490, January 13, 2016, 781 SCRA 73, 88.

⁵² See TSN, February 20, 2014, p. 35.

⁵³ See *People v. Macapundag*, G.R. No. 225965, March 13, 2017, citing *People v. Umipang*, 686 Phil. 1024, 1038 (2012).

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and hence, the integrity and evidentiary value of the *corpus delicti* had been compromised. Consequently, Anyayahan's acquittal is in order.

As a final note, the Court finds it fitting to echo its recurring pronouncement in recent jurisprudence on the subject matter:

The Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions of the Bill of Rights for the protection of liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions.

Those who are supposed to enforce the law are not justified in disregarding the right of the individual in the name of order. Order is too high a price for the loss of liberty. x x x.⁵⁴


In this light, prosecutors are strongly reminded that they have the **positive duty** to prove compliance with the procedure set forth in Section 21, Article II of RA 9165, as amended. As such, **they must have the initiative to not only acknowledge but also justify any perceived deviations from the said procedure during the proceedings before the trial court.** Since compliance with this procedure is determinative of the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of the liberty of the accused, the fact that any issue regarding the same was not raised, or even threshed out in the court/s below, would not preclude the appellate court, including this Court, from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. If no such reasons exist, then it is the appellate court's bounden duty to acquit the accused, and perforce, overturn a conviction.⁵⁵

WHEREFORE, the appeal is **GRANTED**. The Decision dated November 29, 2016 and the Resolution dated January 27, 2017 of the Court of Appeals in CA-G.R. CR No. 38171 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Ricky Anyayahan y Taronas is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

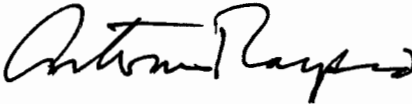
⁵⁴ *People v. Go*, 457 Phil. 885, 925 (2003), citing *People v. Aminnudin*, 246 Phil. 424, 434-435 (1988).

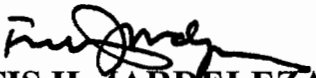
⁵⁵ See *People v. Miranda*, G.R. No. 229671, January 31, 2018.

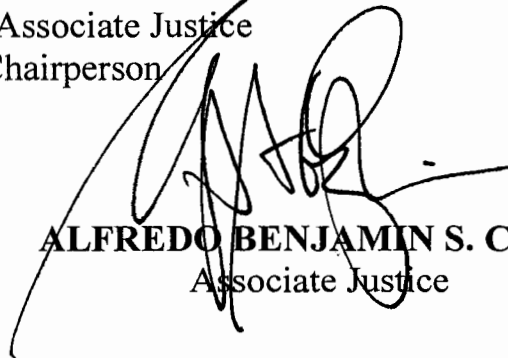
SO ORDERED.



ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
 Senior Associate Justice
 Chairperson



FRANCIS H. JARDELEZA
 Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice


ANDRES B. REYES, JR.
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


ANTONIO T. CARPIO
 Senior Associate Justice
 (Per Section 12, Republic Act No. 296,
 The Judiciary Act of 1948, As Amended)