



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

NORMAN ALFRED F. LAZARO,
 Petitioner,

G.R. No. 230018

Present:

GESMUNDO, *C.J.*, Chairperson,
 CAGUIOA,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, *JJ.*

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

JUN 23 2021

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DECISION

CAGUIOA, J.:

This is a Petition for Review on *Certiorari* (With Prayer for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order)¹ (Petition) filed under Rule 45 of the Rules of Court, assailing the Decision² dated June 16, 2016 (Assailed Decision) of the Court of Appeals (CA) Special Tenth Division and Resolution³ dated February 15, 2017 (Assailed Resolution) of the CA Former Special Tenth Division in CA-G.R. SP No. 139927 denying petitioner Norman Alfred F. Lazaro's (Lazaro) Petition for *Certiorari* under Rule 65 of the Rules of Court and subsequent Motion for Reconsideration, both seeking to set aside the Orders dated August 4, 2014⁴ (First Assailed Order) and January 21, 2015⁵ (Second Assailed Order) of the Regional Trial Court (RTC) of Pasig City, Branch 261, in Criminal Case No. 142883.

¹ *Rollo*, pp. 28-50.

² *Id.* at 11-21. Penned by Associate Justice Florito S. Macalino with Associate Justices Mariflor P. Punzalan Castillo and Ramon Paul L. Hernando (now a member of the Court) concurring.

³ *Id.* at 23-25.

⁴ *Id.* at 101-102. Rendered by Presiding Judge Florian Gregory D. Abalajon.

⁵ *Id.* at 103-105.

Facts

On October 25, 2009, Gian Dale Galindez (Galindez), who was a friend of Lazaro, purportedly jumped from the 26th floor of the Renaissance 2000 Condominium to his untimely death. At the time of the incident, Galindez was in the presence of Lazaro and a common friend of theirs, Kevin Jacob Escalona (Escalona).⁶

The deceased Galindez's father filed a criminal complaint for Giving Assistance to Suicide under Article 253 of the Revised Penal Code against Lazaro and Escalona.⁷ The Office of the City Prosecutor of Pasig City (OCP Pasig), where the complaint was filed, found probable cause to file an Information for the said crime before the RTC.⁸ This prompted Lazaro and Escalona to file a petition for review before the Department of Justice (DOJ), which was granted in a Resolution⁹ dated February 7, 2011. On motion for reconsideration by Galindez's father, however, the OCP Pasig's resolution was reinstated.¹⁰

Meanwhile, on May 17, 2010, an Information was filed against Lazaro and Escalona before the RTC.¹¹ Lazaro was arraigned on February 9, 2011 when, after refusing to enter a plea, the court entered a plea of not guilty for him.¹² On August 13, 2013, Escalona filed a Motion to Quash,¹³ alleging that the facts charged in the Information do not constitute an offense. This motion was granted by the RTC in an Order¹⁴ dated October 23, 2013. In the same Order, however, the OCP Pasig was given ten (10) days from receipt of the Order to file an Amended Information. The dispositive portion of the Order states:

WHEREFORE, premises considered, the Motion to Quash is hereby GRANTED on the ground that the facts charged do not constitute an offense. Accordingly, the Office of the City Prosecutor of Pasig City is hereby directed to file an Amended Information in the instant case within ten (10) days from receipt hereof.

SO ORDERED.¹⁵

⁶ Id. at 30-33.

⁷ Id. at 33.

⁸ Id. at 169-175. See OCP Pasig's Resolution dated May 4, 2010.

⁹ Id. at 177-184.

¹⁰ Id. at 185-190.

¹¹ Id. at 116.

¹² Id. at 36.

¹³ Id. at 130-139.

¹⁴ Id. at 141-144.

¹⁵ Id. at 144.



On December 6, 2013,¹⁶ the OCP Pasig filed a Compliance/Motion for Leave to Admit Amended Information¹⁷ with the Amended Information¹⁸ attached, notably dropping Escalona from the charges. The filing of the Amended Information was done 17 days from the OCP Pasig's receipt of the RTC's Order dated October 23, 2013, and therefore beyond the ten-day period provided in the said Order.¹⁹ Lazaro assailed the Compliance/Motion for Leave to Admit Amended Information *via* a Motion to Expunge.²⁰

Subsequently, the OCP Pasig, through its authorized private prosecutor, filed a Motion for Clarification²¹ dated March 28, 2014, pointing out that the dispositive portion of the RTC's Order dated October 23, 2013 contained contradictory statements, *i.e.*, granting Escalona's Motion to Quash, while at the same time giving the prosecution an opportunity to correct the defect in the Information.²² Lazaro again filed a Motion to Expunge in opposition to this Motion for Clarification, on the ground that the RTC's Order dated October 23, 2013 had already become final and immutable.²³

On August 4, 2014, the RTC issued its First Assailed Order,²⁴ resolving the private prosecutor's Motion for Clarification, and Lazaro's two motions to expunge. The RTC said:

The Court, after revisiting the Order, dated October 23, 2013, concurs with the observation of the private prosecutor that the assailed [O]rder is indeed inconsistent if not vague. A misapprehension in the interpretation and proper application of Sections 4 and 5, Rule 117 of the Revised Rules of Criminal Procedure could have occurred during the drafting or preparation of the questioned [O]rder.

Let it be made of record that the Court's intention is not really to order the quashal of the information, but to give the prosecution an opportunity to correct the defect by way of an amendment pursuant to Section 4, Rule 117 of the Revised Rules of Criminal Procedure. This is apparent from the following pronouncement of this Court on page 4, first paragraph of the [O]rder, dated October 23, 2013, thus:

“Nonetheless, the Court is not yet ready to order the dismissal of this case. The Court, guided by the provision of Sections 4 and 5, Rule 117 of the Revised Rules of Criminal Procedure, is more inclined to give the prosecution an opportunity to correct the defect in the information by way of an amendment thereto.”

¹⁶ Id. at 14.

¹⁷ Id. at 191-193.

¹⁸ Id. at 194-195.

¹⁹ Id. at 14.

²⁰ Id. at 37-38.

²¹ Id. at 145-150.

²² Id. at 147.

²³ Id. at 38.

²⁴ *Supra* note 4.



Moreover, in the dispositive portion of the questioned order, the Court directed the [DOJ] or the [OCP Pasig] to file an Amended Information within ten (10) days from receipt of the order.

Hence, pursuant to the provision of Section 4, Rule 117 of the Revised Rules of Criminal Procedure and in order to reflect the true intention of this Court, let the dispositive portion of the Order, dated October 23, 2013, be accordingly amended

FROM:

“WHEREFORE, premises considered, the Motion to Quash is hereby GRANTED. Accordingly, the Information in the instant case is hereby QUASHED on the ground that the facts charged do not constitute an offense.

The [DOJ] or the [OCP Pasig] is hereby directed to file an Amended Information in the instant case within ten (10) days from receipt hereof.”

TO:

WHEREFORE, premises considered, the Court is convinced that [the] Information in this case is defective on the ground that the facts charged do not constitute an offense. Pursuant to Paragraph 2, Section 4, Rule 117 of the Revised Rules of Criminal Procedure, the [DOJ] or the Office of the City Prosecutor is hereby given a period of ten (10) days from receipt of this Order to correct the defect by amendment.

If the prosecution fails to make the amendment within the period given or if despite the amendment the amended information would still suffer from the same defect, the instant Motion to Quash would be granted.

SO ORDERED.²⁵ (Emphasis and underscoring in the original)

Lazaro filed a Motion for Reconsideration²⁶ dated September 29, 2014 of the RTC’s First Assailed Order, arguing that the RTC’s Order dated October 23, 2013 granting Escalona’s Motion to Quash had already become final and immutable when the prosecution did not file an Amended Information ten days from receipt of said Order. Hence, it can no longer be amended or clarified by the RTC.

In its Second Assailed Order,²⁷ the RTC denied Lazaro’s Motion for Reconsideration, observing that the RTC’s Order dated October 23, 2013 was never meant to dismiss the criminal case for Giving Assistance to Suicide. The *falla* of the said Order conflictingly “granted” the Motion to Quash, while at the same time giving the prosecution an opportunity to

²⁵ Id.

²⁶ Id. at 106-115.

²⁷ Supra note 5.



correct the defect in the Information by way of amendment pursuant to Section 4, Rule 117 of the Rules of Court. It is the latter pronouncement that the body of the Order is consistent with.

Undeterred, Lazaro assailed the RTC's orders *via* a Petition for *Certiorari*²⁸ under Rule 65 of the Rules of Court before the CA. In its Assailed Decision,²⁹ the CA denied the Petition for *Certiorari*. The CA found that the RTC's Order dated October 23, 2013 must indeed be read as ordering the filing of an amended information instead of a quashal of the original information, thereby amounting to a denial of Escalona's Motion to Quash. Being a denial of a motion to quash, it was interlocutory, and may be amended by the RTC to make it conform to law and jurisprudence. The proper course of action for the RTC on the Motion to Quash, it being based on the ground that the facts charged do not constitute a crime, is to give the prosecution the opportunity to correct the defect by amendment.

Lazaro's subsequent Motion for Reconsideration³⁰ of the Assailed Decision was denied by the CA in its Assailed Resolution.³¹

Hence, this Petition.

Issues

The sole issue submitted for resolution of the Court is whether the CA committed a serious reversible error when it affirmed the RTC's modification/revision of its earlier Order.

Ruling of the Court

The Petition lacks merit.

Lazaro argues that when the RTC granted Escalona's Motion to Quash in its Order dated October 23, 2013, and when the prosecution subsequently failed to file the Amended Information within the ten-day period allowed by the RTC, the said Order became final and executory, effectively dismissing the case against him "with constitutional aftermaths."³² Being final and executory, the RTC should not have corrected or altered the said Order as this violated the principle of immutability of final judgment.³³

²⁸ Id. at 76-99.

²⁹ Supra note 2.

³⁰ Id. at 68-75.

³¹ Supra note 3.

³² Id. at 41.

³³ Id. at 42.



The contention is untenable.

As correctly found by the CA, the Order dated October 23, 2013 did not dismiss the case against Lazaro. To recall, the dispositive portion thereof states:

WHEREFORE, premises considered, the Motion to Quash is hereby GRANTED on the ground that the facts charged do not constitute an offense. Accordingly, the [OCP Pasig] is hereby directed to file an Amended Information in the instant case within ten (10) days from receipt hereof.

SO ORDERED.³⁴

For reference, Escalona's Motion to Quash prayed for the following:

WHEREFORE, premises considered, it is most respectfully prayed that subject information be **QUASHED**, and Criminal Case No. 142883, be accordingly **DISMISSED**.

Other just and equitable reliefs are likewise prayed for.³⁵
(Emphasis in the original)

Given the foregoing, the first and second sentences of the *fallo* of the RTC's Order dated October 23, 2013 are clearly contradictory to each other. Granting the Motion to Quash would mean the quashal of the information and dismissal of the criminal case. If the RTC truly intended this, there would be no reason for it to have ordered the OCP Pasig or the DOJ to file an amended information within ten days from receipt, because the case would have already been dismissed.

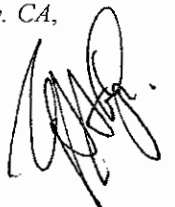
The Court is aware of the doctrine that where there is a conflict between the dispositive portion or *fallo* of a decision and the opinion of the court contained in the body of the decision, the *fallo* will prevail. However, this rule is not without exception. Where the inevitable conclusion from the body of the decision is so clear as to show that there was a mistake in the dispositive portion, the body of the decision will prevail.³⁶

In this case, the body of the Order dated October 23, 2013 discourages any conclusion that the intent of the RTC was to dismiss the case against Lazaro. The Order states:

³⁴ Id. at 144.

³⁵ Id. at 137.

³⁶ *The Law Firm of Raymundo A. Armovit v. CA*, G.R. No. 154559, October 5, 2011, 658 SCRA 554, 567; *Grageda v. Gomez*, G.R. No. 169536, September 21, 2007, 533 SCRA 677, 691; *Rosales v. CA*, G.R. No. 137566, February 28, 2001, 353 SCRA 179, 192.



Nonetheless, the Court is not yet ready to order the dismissal of this case. The Court, guided by the provision[s] of Sections 4 and 5, Rule 117 of the Revised Rules of Criminal Procedure, is more **inclined to give the prosecution an opportunity to correct the defect in the information by way of an amendment thereto.**³⁷ (Emphasis supplied)

The RTC's reference to Sections 4 and 5, Rule 117 of the Revised Rules of Criminal Procedure further buttresses the conclusion that it never intended to dismiss the case pending before it. These provisions state:

Sec. 4. Amendment of the complaint or information. – If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.

If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.

Sec. 5. Effect of sustaining the motion to quash. – **If the motion to quash is sustained, the court may order that another complaint or information be filed except as provided in section 6 of this rule.** If the order is made, the accused, if in custody, shall not be discharged unless admitted to bail. If no order is made or if having been made, no new information is filed within the time specified in the order or within such further time as the court may allow for good cause, the accused, if in custody, shall be discharged unless he is also in custody for another charge. (Emphasis, underscoring and italics supplied)

Prevailing jurisprudence on the foregoing provisions offers further insight into the effect of filing a motion to quash on the ground that the facts charged do not constitute an offense, as in this case. In *People v. Andrade*,³⁸ the Court said:

If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.

If the defect in the information is curable by amendment, the motion to quash shall be denied and the prosecution shall be ordered to file an amended information. Generally, the fact that the allegations in the information do not constitute an offense, or that the information does not conform substantially to the prescribed form, are defects curable by

³⁷ *Rollo*, p. 144.

³⁸ G.R. No. 187000, November 24, 2014, 741 SCRA 460.



amendment. Corollary to this rule, the court should give the prosecution an opportunity to amend the information.

In the present case, the RTC judge outrightly dismissed the cases without giving the prosecution an opportunity to amend the defect in the Informations. In *People v. Talao Perez*, this Court ruled that, "...even granting that the information in question is defective, as pointed out by the accused, **it appearing that the defects thereof can be cured by amendment, the lower court should not have dismissed the case but should have ordered the Fiscal to amend the information.**" When there is any doubt about the sufficiency of the complaint or information, the court should direct its amendment or that a new information be filed, and save the necessity of appealing the case on technical grounds when the complaint might easily be amended.³⁹ (Emphasis and underscoring supplied; citations and emphasis in the original omitted)

The exact same doctrine was affirmed by the Court in *People v. Sandiganbayan*:⁴⁰

When a motion to quash is filed challenging the validity and sufficiency of an Information, and the defect may be cured by amendment, **courts must deny the motion to quash and order the prosecution to file an amended Information.**

Generally, a defect pertaining to the failure of an Information to charge facts constituting an offense is one that may be corrected by an amendment. In such instances, courts are mandated not to automatically quash the Information; rather, it should grant the prosecution the opportunity to cure the defect through an amendment. This rule allows a case to proceed without undue delay. By allowing the defect to be cured by simple amendment, unnecessary appeals based on technical grounds, which only result to prolonging the proceedings, are avoided.⁴¹ (Citations omitted; emphasis and underscoring supplied)

In sum, when an accused files a motion to quash on the ground that the facts charged do not constitute an offense, the trial court is mandated to deny the motion and give the prosecution an opportunity to amend the information.

The RTC, based solely on the vagueness of the *fallo* of its Order, cannot be presumed to have dismissed the case in direct contravention of the foregoing provisions of the Rules and relevant jurisprudence. This is especially so given the unequivocal language of the body of its Order dated October 23, 2013. The conclusion that must be made, therefore, is that the RTC never dismissed the case against Lazaro and Escalona; hence, no such

³⁹ Id. at 473-474.

⁴⁰ G.R. No. 160619, September 9, 2015, 770 SCRA 162.

⁴¹ Id. at 176-177.

dismissal could have become final and immutable. On this point, the CA is undeniably correct.

Necessarily, also, the CA was not in error when it upheld the RTC's First Assailed Order (granting the prosecution's Motion for Clarification). As aptly observed by the CA, it was well within the RTC's discretion to clarify the Order dated October 23, 2013, the latter not being a dismissal of the criminal case. Finding that there was an irreconcilable contradiction in the *fallo* of the Order dated October 23, 2013, the RTC merely exercised its inherent power to amend and control its processes and orders to make the same conformable to law and justice, recognized in Section 5,⁴² Rule 135 of the Rules of Court.

Similarly, the Court agrees with the CA that the RTC was not in error when it allowed the amendment of the information despite the belated filing by the prosecution of its Compliance/Motion to Admit Amended Information. Section 11, Rule 11 of the Rules of Court provides:

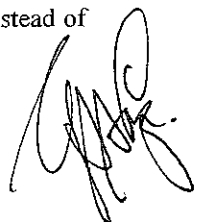
Sec. 11. Extension of time to plead. — Upon motion and on such terms as may be just, the court may extend the time to plead provided in these Rules.

The court may also, upon like terms, allow an answer or other pleading to be filed after the time fixed by these Rules.

It must immediately be noted that the Rules do not prescribe a period for filing an amended information by the prosecution when so ordered by the trial court in response to a motion to quash. In this case, the ten-day period was set by the RTC in its discretion. Indeed, the RTC could also validly set a shorter or longer period within reason, in the sound exercise of its discretion. All the more should the RTC be empowered to allow or admit the amended information despite being filed beyond the period it initially fixed in its Order dated October 23, 2013.

⁴² Sec. 5. Inherent powers of court. — Every court shall have power:

- (a) To preserve and enforce order in its immediate presence;
- (b) To enforce order in proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;
- (c) To compel obedience to its judgments, orders and processes, and to the lawful orders of a judge out of court, in a case pending therein;
- (d) To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a case before it, in every manner appertaining thereto;
- (e) To compel the attendance of persons to testify in a case pending therein;
- (f) To administer or cause to be administered oaths in a case pending therein, and in all other cases where it may be necessary in the exercise of its powers;
- (g) To amend and control its process and orders so as to make them conformable to law and justice; [and]
- (h) To authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original, and to restore, and supply deficiencies in its records and proceedings.



Courts are not precluded, in the sound exercise of their discretion, to subscribe to a liberal construction of the rules where substantial justice may be served thereby, and where no undue injury would be suffered by any party. In *Helen Say v. Gabriel Dizon*⁴³ — a case where the trial court allowed the belated submission by the petitioners therein of their Judicial Affidavits — the Court said:

Jurisprudence explains that “[w]hen no substantial rights are affected and the intention to delay is not manifest with the corresponding [submission] x x x, it is sound judicial discretion to allow the same to the end that the merits of the case may be fully ventilated.” In this relation, the Court has held that “[c]ourts have the prerogative to relax procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties’ right to due process. In numerous cases, this Court has allowed liberal construction of the rules when to do so would serve the demands of substantial justice and equity,” as in this case.

Thus, based on the considerations above-discussed, the Court finds that the RTC did not act in an arbitrary, whimsical, and capricious manner in admitting the subject Judicial Affidavits. Verily, there was no patent abuse of discretion which was so gross in nature amounting to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law. What is only apparent is that the RTC exercised its due discretion in relaxing the rigid application of the JAR in the interest of substantial justice. Accordingly, the CA erred in attributing grave abuse of discretion against it.⁴⁴ (Citations omitted)

Relevantly, the mandate of the Courts to afford the prosecution an opportunity to correct defects in the Information carries with it not only practical considerations, but also due process implications. In *People v. Andrade*,⁴⁵ the Court explained:

x x x When there is any doubt about the sufficiency of the complaint or information, the court should direct its amendment or that a new information be filed, **and save the necessity of appealing the case on technical grounds when the complaint might easily be amended.**

x x x x

The CA, however, still upheld the ruling of the RTC, stating that “whatever perceived error the trial court may have committed is inconsequential as any intended amendment to the informations filed surely cannot cure the defects,” and to justify such conclusion, the CA proceeded to decide the merits of the case based merely on the allegations in the Information. Such pronouncement, therefore, is speculative and premature without giving the prosecution the opportunity to present its evidence or, to at least, amend the Informations. In *People v. Leviste*, we **stressed that the State, like any other litigant, is entitled to its day in**

⁴³ G.R. No. 227457, June 22, 2020.

⁴⁴ Id. at 7.

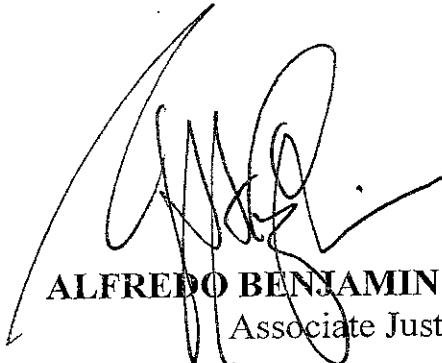
⁴⁵ Supra note 38.

court; in criminal proceedings, the public prosecutor acts for and represents the State, and carries the burden of diligently pursuing the criminal prosecution in a manner consistent with public interest. The prosecutor's role in the administration of justice is to lay before the court, fairly and fully, every fact and circumstance known to him or her to exist, without regard to whether such fact tends to establish the guilt or innocence of the accused and without regard to any personal conviction or presumption on what the judge may or is disposed to do. The prosecutor owes the State, the court and the accused the duty to lay before the court the pertinent facts at his disposal with methodical and meticulous attention, clarifying contradictions and filling up gaps and loopholes in his evidence to the end that the court's mind may not be tortured by doubts; that the innocent may not suffer; and that the guilty may not escape unpunished. In the conduct of the criminal proceedings, the prosecutor has ample discretionary power to control the conduct of the presentation of the prosecution evidence, part of which is the option to choose what evidence to present or who to call as witness. **Thus, the RTC and the CA, by not giving the State the opportunity to present its evidence in court or to amend the Informations, have effectively curtailed the State's right to due process.**⁴⁶ (Citations omitted and emphasis supplied)

Seen in this light, the RTC had good reason to admit the belatedly-filed Amended Information and did not act with grave abuse of discretion in doing so. The unavoidable conclusion is that neither the vague language of the *fallo* of the RTC's Order dated October 23, 2013, nor the belated filing of the Amended Information, render the criminal case against Lazaro dismissed with finality.

WHEREFORE, premises considered, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated June 16, 2016 and Resolution dated February 15, 2017 of the Court of Appeals in CA-G.R. SP No. 139927 are hereby **AFFIRMED**. The Temporary Restraining Order issued by the Court on September 20, 2017 restraining the Presiding Judge of the Regional Trial Court of Pasig City, Branch 261, from further continuing with the proceedings of Criminal Case No. 142883 entitled *People of the Philippines v. Norman Alfred F. Lazaro and Kevin Jacob Escalona* is hereby **LIFTED**.


SO ORDERED.



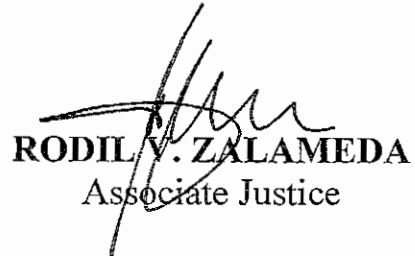
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

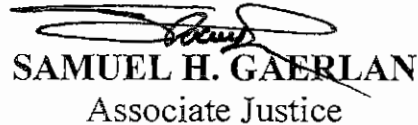
⁴⁶ Id. at 474-476.

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

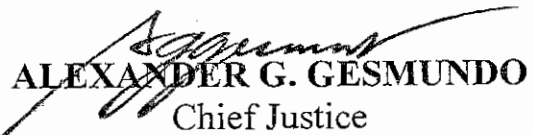

ROSMARI D. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
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.


ALEXANDER G. GESMUNDO
Chief Justice

