

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-appellee,

G.R. No. 265439

Present:

-versus-

LEONEN, S.A.J., *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

XXX265439,*

Accused-appellant.

Promulgated:

NOV 13 2023

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DECISION

LAZARO-JAVIER, *J.*:

The Case

This Appeal¹ seeks to reverse the Decision² dated July 9, 2021 of the Court of Appeals in CA-G.R. CR No. 42378 affirming with modification the conviction of accused-appellant XXX265439 for three counts of rape under Article 266-A (1)(d) and Article 266-B(1) of the Revised Penal Code in

* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 8353, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy.

¹ *Rollo*, pp. 3-5.

² *Id.* at 9-28. Penned by Associate Justice Pablito A. Perez, and concurred in by Associate Justices Ramon M. Bato, Jr. and Raymond Reynold R. Lauigan, Court of Appeals, Manila.

relation to Republic Act No. 7610 or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act."³

Antecedents

XXX265439 was charged with three counts of qualified statutory rape under the following Informations,⁴ all dated June 16, 2010:

Criminal Case No. 11081-G

That on February 18, 2010 at on or about 4:00 in the afternoon in [REDACTED], Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a seventeen years (sic) old who acted with discernment, with lewd design, did then and there willfully, knowingly and feloniously have carnal knowledge to (sic) his niece [AAA265439] a nine (9) years (sic) old female child by inserting his penis inside her vagina against her will and to her damage and prejudice.

Contrary to law.⁵

Criminal Case No. 11082-G

That on February 19, 2010 at on or about 4:00 in the afternoon in [REDACTED], Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a seventeen years (sic) old who acted with discernment, with lewd design, did then and there willfully, knowingly and feloniously have carnal knowledge to (sic) his niece [AAA265439] a nine (9) years (sic) old female child by inserting his penis inside her vagina, against her will and to her damage and prejudice.

Contrary to law.⁶

Criminal Case No. 11083-G

That on February 19, 2010 at on or about 4:00 in the afternoon in [REDACTED], Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a seventeen years (sic) old who acted with discernment, with lewd design, did then and there willfully, knowingly and feloniously have carnal knowledge to (sic) his niece [AAA265439] a nine (9) years (sic) old female child by inserting his penis inside her vagina against her will and to her damage and prejudice.

³ Approved on June 17, 1992.

⁴ *Rollo*, p. 10.

⁵ *Id.*

⁶ *Id.*

Contrary to law.⁷

On arraignment, XXX265439 pleaded “not guilty.” Trial ensued.⁸

The prosecution presented the testimonies of AAA265439, her mother, BBB265439, Barangay Captain CCC265439, social worker Rosalinda G. Buñales, and Dr. Ramon Baldovino, while the defense presented the lone testimony of XXX265439.⁹

Version of the Prosecution

On February 18, 2010, around 4:00 p.m., 17-year-old XXX265439 arrived at the house of his brother. He saw his niece, 9-year-old AAA265439, and her younger brother watching television inside the house. He gave AAA265439’s younger brother PHP 1.00 and ordered him to move to another part of the house. When AAA265439’s younger brother left, XXX265439 removed AAA265439’s shorts and underwear, and removed his own shorts and underwear. He coaxed AAA265439 to lie down and inserted his penis in her vagina. AAA265439 felt pain in her vagina but she remained quiet because she was afraid he would hurt her. XXX265439 heard voices outside of the house and he hurriedly put his clothes back on and left. AAA265439 also put her clothes back on and went to greet her cousins outside the house.¹⁰

The next day, or on February 19, 2010, around 4:00 p.m., AAA265439 was again watching television when XXX265439 arrived at her house. He threatened to kill her if she reported what happened the day before. Thereafter, he again removed her shorts and underwear and proceeded to insert his penis inside her vagina. When AAA265439’s mother, BBB265439, arrived, she saw XXX265439 hurriedly leaving AAA265439’s room. When she entered AAA265439’s room, the latter was pulling up her underwear and shorts. BBB265439 suspected that XXX265439 raped AAA265439, so she followed him to confront him and started hitting XXX265439 with a bamboo stick.¹¹

BBB265439 reported the incident to Barangay Captain CCC265439, who instructed the barangay police to go to their house. XXX265439, who was in the house, voluntarily went with the police for questioning.¹²

⁷ *Id.* at 10–11.

⁸ *Id.* at 13.

⁹ *Id.* at 13–14.

¹⁰ *Id.* at 11.

¹¹ *Id.* at 12.

¹² *Id.*

Dr. Luisa V. Escondo examined AAA265439 and found that she had a cut/lacerated wound at the 9 o'clock position on her hymenal area, per Certification No. WCPU 2010-02-0055 dated February 22, 2010.¹³

Version of the Defense

XXX265439 denied the charges against him. He claimed that BBB265439 had been physically abusing him since 2004 and the abuse continued when he was entrusted to her care. Although he was staying in BBB265439's house for two years, he was never alone with AAA265439.¹⁴

The Ruling of the Regional Trial Court

By Judgment¹⁵ dated August 7, 2018, the trial court found XXX265439 guilty of three counts of rape in relation to Republic Act No. 7610,¹⁶ thus:

WHEREFORE, in view of the foregoing, accused [XXX265439] is hereby found **GUILTY BEYOND REASONABLE DOUBT** of the crime of Rape in [r]elation to [Republic Act. No.] 7610. Taking into consideration the privileged mitigating circumstance of minority in favor of the accused he is hereby sentenced to suffer the lower penalty of reclusion temporal in its medium period which ranges from fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months for each count.

He is likewise ordered to pay the private complainant the amount of [PHP] 100,000.00 as civil indemnity, [PHP] 100,000.00 as moral damages and [PHP] 30,000.00 as exemplary damages for each count.

SO ORDERED.¹⁷

The Ruling of the Court of Appeals

Under its assailed Decision¹⁸ dated July 9, 2021, the Court of Appeals denied XXX265439's appeal:

WHEREFORE, premises considered, this appeal is hereby **DENIED**. The RTC's Judgment dated August 7, 2018 in Criminal Case Nos. 11081-G, 11082-G[,] and 11083-G, finding accused-appellant [XXX265439] **GUILTY** of rape is hereby **AFFIRMED** with

¹³ *Id.* at 12-13.

¹⁴ *Id.*

¹⁵ *Id.* at 29-38.

¹⁶ Special Protection of Children Against Abuse, Exploitation, and Discrimination Act, approved June 17, 1992.

¹⁷ *Rollo*, pp. 37-38. Penned by Presiding Judge Maria Chona E. Pulgar-Navarro, Regional Trial Court,

¹⁸ *Id.* at 9-28.

MODIFICATION that accused-appellant [XXX265439] is hereby sentenced to suffer the penalty of *reclusion perpetua* in each case.

On the award of damages, accused-appellant [XXX265439] is hereby ordered to pay [AAA265439] civil indemnity of [PHP] 75,000.00, moral damages of [PHP] 75,000.00 and exemplary damages of [PHP] 75,000.00, for each count. In addition, the damages awarded shall earn legal interest at the rate of 6% per annum from the finality of this Decision until its full satisfaction.

SO ORDERED.¹⁹ (Emphasis in the original).

The Court of Appeals found that the prosecution proved beyond reasonable doubt all the elements of qualified statutory rape. AAA265439 was only 9 years old when XXX265439, her uncle, had carnal knowledge of her.²⁰ Considering, however, that XXX265439 was only 17 years old at the time of the commission of the crime, he is entitled to the privileged mitigating circumstance of minority under Section 68(2) of the Revised Penal Code, thus, it modified the penalty to *reclusion perpetua* and the amounts of civil indemnity, moral damages, and exemplary damages from PHP 100,000.00 each to PHP 75,000.00 each in accordance with *People v. Jugueta*.²¹

The Present Appeal

XXX265439 now seeks affirmative relief from the Court and pleads anew for his acquittal. In compliance with the Resolution²² dated April 24, 2023, XXX265439²³ and the Office of the Solicitor General²⁴ both manifested that they are adopting their respective Briefs before the Court of Appeals in lieu of filing supplemental briefs.

Issue

Is XXX265439 guilty beyond reasonable doubt of three counts of qualified statutory rape?

Ruling

The appeal is partly granted.

¹⁹ *Id.* at 27.

²⁰ *Id.* at 24.

²¹ *Id.* at 26–27.

²² *Id.* at 39.

²³ *Id.* at 48–50.

²⁴ *Id.* at 41–44.

Applying Article 266-A(1)(d) in relation to Article 266-B of the Revised Penal Code, the prosecution must allege and prove the following elements of qualified statutory rape:

- (1) The accused had carnal knowledge of the offended party, a girl;
- (2) The offended party was under twelve (12) years of age at the time of the rape; and
- (3) The offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree.

Statutory rape under Article 266-A(1)(d) is committed by sexual intercourse with a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act. Proof of force, intimidation, or consent is unnecessary as they are not elements of statutory rape, for the absence of free consent is conclusively presumed when the victim is below the age of 12. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act.²⁵

We rule that the prosecution was able to prove all the elements of statutory rape for Criminal Case No. 11081-G and Criminal Case No. 11082-G.

AAA265439 consistently narrated how XXX265439, her uncle, had carnal knowledge of her against her will on February 18, 2010 and again on February 19, 2010. Too, she was only 9 years old at the time, as proven by her Certificate of Live Birth showing that she was born on [REDACTED] 2000.²⁶

The qualifying circumstance of relationship, however, was not sufficiently alleged in the Informations. To recall, the Informations merely alleged that “the above-named accused, xxx [had] carnal knowledge [of] his niece AAA265439, a nine (9) year-old female child xxx.” It did not specifically state that XXX265439 was a relative of AAA265439 “by consanguinity or affinity within the third civil degree.”

In *People v. Estrada*,²⁷ the Court convicted Estrada of two counts of rape, and emphasized that circumstance that accused-appellant is “a relative of the victims by consanguinity or affinity within the third civil degree” must be alleged in the Information. The Court ruled that it was immaterial that appellant admitted that the victim was his niece, as here.²⁸

In fine, XXX265439 can only be found guilty of statutory rape.

²⁵ *People v. DDD*, G.R. No. 233323, August 26, 2020 [Notice, Third Division].

²⁶ *Rollo*, p. 16.

²⁷ 624 Phil. 211 (2010) [Per J. Del Castillo, Second Division].

²⁸ *Id.* at 224.

Notably, XXX265439 merely offered denial which did not overcome the clear, categorical, and positive testimony of AAA265439 that he sexually assaulted her on February 18 and 19, 2010. To be sure, denial is an inherently weak defense which cannot prevail over the positive and credible testimony of AAA265439 that XXX265439 committed the crime. Between categorical testimony which has the ring of truth on the one hand, and mere denial on the other, the former is, thus, generally held to prevail.²⁹

In any case, the trial court's factual findings on the credibility of witnesses are accorded respect, if not conclusive effect. This is because the trial court has the unique opportunity to observe the witnesses' demeanor, and is in the best position to discern whether they are telling the truth or not. This rule becomes more compelling when such factual findings carry the full concurrence of the Court of Appeals, as here.³⁰

As mentioned, AAA265439 was only 9 years old when the rape incidents happened. To be sure, a victim of tender age would not have narrated such sordid details had she not experienced them. Courts in general accord full weight and credence to the testimonies of child victims, considering that their youth and immaturity are generally badges of truth and sincerity.³¹

***XXX265439 is guilty of two counts
of statutory rape***

The trial court and the Court of Appeals convicted XXX265439 of three counts of rape. A review of the records reveals, however, that XXX265439 can only be convicted of two counts of statutory rape.

AAA265439 narrated that on February 19, 2010, XXX265439 penetrated her twice, viz.:

Q: A while ago, Madam witness, you already stated in the direct testimony that during the incident on February 19, 2010, the accused already penetrated you once, you recall having stated that?

A: Yes, sir.

Q: In your statement, you have identified earlier as your statement specifically in second page, question number 13, wherein you were asked by the person taking your Affidavit then, 'Maaari mo bang isalaysay ang nangyari sa iyo kahapon?['] In reference to February 19, 2010, isinagot mo dito, to cut the story short, '*Dalawang beses po niyang pinasok ang kanyang ari sa akin po.*' My question is, which is which, the one you are talking a while ago that you were then penetrated by the accused only once or THE statement of yours that you were

²⁹ *People v. XXX*, G.R. No. 231387, July 13, 2022 [Per J. Caguioa, Third Division].

³⁰ *People v. Bay-Od*, 845 Phil. 644, 651 (2019) [Per J. Peralta, Third Division].

³¹ *BBB v. People*, 880 Phil. 417, 434 (2020) [Per J. Lazaro-Javier, First Division].

penetrated by the accused twice during that day, which is which, for clarity?

A: The truth is my Affidavit, I just forgot because it was too long ago, sir. The statement in my Affidavit is the truth.

Q: That is the truth?

A: Yes, sir.

Q: **You are saying to this Honorable Court that on the said date you were twice penetrated by the accused?**

A: Yes, sir.

Q: With regard to the answer in your sworn statement, in question number 3 that the accused penetrated you twice on the same day, can you tell or narrate to the Honorable Court how the second penetration happened?

A: **He removed and after that he again inserted, sir.**³²

In *People v. Lucena*,³³ the Court found therein appellant guilty of three separate counts of rape because the three penetrations occurred at an interval of five minutes, wherein appellant would rest after satiating his lust, regain his strength, and again rape AAA. The Court ruled that Lucena was clearly not motivated by a single impulse, but rather by several criminal intent.³⁴

Here, AAA265439 merely stated that on February 19, 2010, XXX265439 penetrated her twice or that “he removed his penis and inserted it again.”³⁵ There is no indication, however, that there was a significant interval between the two penetrations described by AAA265439. XXX265439, therefore, can only be convicted of two counts of statutory rape.

XXX265439 acted with discernment at the time of the commission of the crimes

Notably, XXX265439 was only 17 years old at the time of the commission of the crime, as established by his Certificate of Live Birth, showing he was born on [REDACTED] 1992.³⁶

As aptly discussed by the Court of Appeals, however, this does not mean that he can escape liability considering the prosecution sufficiently established that he had acted with discernment when he raped AAA265439 on February 18 and 19, 2010.

³² *Rollo*, pp. 19–20.

³³ 728 Phil. 147 (2014) [Per J. Perez, Second Division].

³⁴ *Id.* at 165–166.

³⁵ *Rollo*, p. 20.

³⁶ *Id.* at 23.

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In *People v. ZZZ*,³⁷ the Court defined “discernment” as the “mental capacity of a minor to fully appreciate the consequences of his unlawful act,” which must be determined depending on the facts of each case.³⁸

XXX265439’s actions before and after the commission of the rapes manifest a design and well-planned scheme to take advantage of his 9-year-old niece:

First. He induced AAA265439’s younger brother to go down by giving the latter money, giving him the opportunity to be left alone with AAA265439.

Second. The next day, he threatened AAA265439 that he would kill her if she ever told anyone about what happened.³⁹

Evidently, XXX265439 committed the crimes with an understanding of their depravity and consequences. He must, therefore, suffer the full brunt of the penalty of the crimes.

In *Dorado v. People*,⁴⁰ the Court explained how Republic Act No. 9344⁴¹ applies to children in conflict with the law who acted with discernment, thus:

Consequently, under R.A. No. 9344, only a child above fifteen (15) years but below eighteen (18) years of age who acted with discernment shall not be exempted from criminal responsibility. Nevertheless, the said child does not immediately proceed to trial. Instead, he or she may undergo a diversion, which refers to an alternative, child-appropriate process of determining the responsibility and treatment of the [Child In Conflict with the Law] without resorting to formal court proceedings. If the diversion is unsuccessful or if the other grounds provided by law are present, then the [Child In Conflict with the Law] shall undergo the appropriate preliminary investigation of his or her criminal case, and trial before the courts may proceed.

Once the [Child In Conflict with the Law] is found guilty of the offense charged, the court shall not immediately execute its judgment; rather, it shall place the [Child In Conflict with the Law] under suspended sentence. Notably, the suspension shall still be applied even if the juvenile is already eighteen (18) years of age or more at the time of the pronouncement of his or her guilt. During the suspension, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law. If the disposition measures are successful, then the court shall discharge the [Child In Conflict with the Law]. Conversely, if unsuccessful, then the court has the following

³⁷ 857 Phil. 629 (2019) [Per J. Leonen, Third Division].

³⁸ *Id.* at 647.

³⁹ *Rollo*, p. 24.

⁴⁰ 796 Phil. 233 (2016) [Per J. Mendoza, Second Division].

⁴¹ Juvenile Justice and Welfare Act of 2006, approved April 28, 2006.

options: (1) to discharge the child, (2) to order execution of sentence, or (3) to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.⁴²

Too, in *CICL XXX v. People*,⁴³ the Court ruled that pursuant to Section 40⁴⁴ of Republic Act No. 9344, which limits the said suspension until the child reaches the maximum age of 21, petitioner therein, who was beyond the age of 21 years, could no longer avail of the suspension of sentence under Section 38.⁴⁵

To recall, XXX265439 was born on [REDACTED] 1992; therefore, he had already reached the maximum age of 21 years at the time of his conviction on August 7, 2018. The automatic suspension provided under Section 38,⁴⁶ in relation to Section 40 of Republic Act No. 9344 is, thus, no longer applicable to him.

Penalty and Damages

Under Article 266-B of the Revised Penal Code, the prescribed penalty for statutory rape is *reclusion perpetua*.

Considering XXX265439 committed the crime when he was 17 years old, he is, thus, entitled to the privileged mitigating circumstance of minority under Article 68(2)⁴⁷ of the Revised Penal Code. Accordingly, the penalty to

⁴² *Dorado v. People*, 796 Phil. 233, 246–247 (2016) [Per J. Mendoza, Second Division].

⁴³ 899 Phil. 467 (2021) [Per C.J. Peralta, First Division].

⁴⁴ **SEC. 40. Return of the Child in Conflict with the Law to Court.** – If the court finds that the objective of the disposition measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to comply with the conditions of his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for execution of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.

⁴⁵ 899 Phil. 467, 485 (2021) [Per C.J. Peralta, First Division].

⁴⁶ **SEC. 38. Automatic Suspension of Sentence.** – Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: *Provided, however*, That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

⁴⁷ **Art. 68. Penalty to be imposed upon a person under eighteen years of age.** — When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraphs next to the last of Article 80 of this Code, the following rules shall be observed:

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be imposed shall be the penalty next lower in degree than that prescribed by law. Hence, the impossible penalty is *reclusion temporal* or one degree lower than the prescribed penalty.

Applying the Indeterminate Sentence Law,⁴⁸ XXX265439 should be sentenced to suffer the penalty of imprisonment for an indeterminate period of six years of *prision correccional*, as minimum, to 15 years and four months of *reclusion temporal*, as maximum, for each count.

Too, XXX265439 is entitled to the benefit of Section 51⁴⁹ of Republic Act No. 9344, despite his age at the time of conviction. Hence, he may serve his sentence in an agricultural camp or other training facilities that may be established, maintained, supervised, and controlled by the Bureau of Corrections, in coordination with the Department of Social Welfare and Development.⁵⁰

As for the civil liabilities, the Court of Appeals properly reduced the amounts of civil indemnity, moral damages, and exemplary damages from PHP 100,000.00 each to PHP 75,000.00 each in accordance with *People v. Jugueta*.⁵¹ We, too, affirm the imposition of 6% interest on all the monetary awards from finality of this Decision until fully paid.

ACCORDINGLY, the Appeal is PARTLY GRANTED.

1. In Criminal Case No. 11081-G, **XXX265439** is found **GUILTY** of **STATUTORY RAPE** as defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, and is sentenced to suffer the penalty of imprisonment for an indeterminate period of six years of *prision correccional*, as minimum, to 15 years and four months of *reclusion temporal*, as maximum.

2. In Criminal Case No. 11082-G, **XXX265439** is found **GUILTY** of **STATUTORY RAPE** as defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, and is sentenced to suffer the penalty of

2. Upon a person over fifteen and under eighteen years of age the penalty next lower than that prescribed by law shall be imposed, but always in the proper period. (Emphasis supplied).

⁴⁸ An Act To Provide For An Indeterminate Sentence And Parole For All Persons Convicted Of Certain Crimes By The Courts Of The Philippine Islands; To Create A Board Of Indeterminate Sentence And To Provide Funds Therefor; And For Other Purposes, approved on December 5, 1933.

⁴⁹ **SEC. 51. Confinement of Convicted Children in Agricultural Camps and other Training Facilities.** – A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

⁵⁰ *People v. XXX*, 885 Phil. 738, 762 (2020) [Per J. Carandang, Third Division].

⁵¹ 783 Phil. 806, 848 (2016) [Per J. Peralta, *En Banc*].


imprisonment for an indeterminate period of six years of *prision correccional*, as minimum, to 15 years and four months of *reclusion temporal*, as maximum.

3. In Criminal Case No. 11083-G, **XXX265439** is **ACQUITTED** of **QUALIFIED STATUTORY RAPE** as defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, on reasonable doubt.


On account of the minority of XXX265439 when he came in conflict with the law, he may serve his sentence in an agricultural camp or training facility in accordance with Section 51 of Republic Act No. 9344. Thus, this case shall be **REMANDED** to the court of origin to effect the imposition of the full service of his sentence in an agricultural camp or other training facility.

He is further ordered to **PAY** AAA265439 PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, and PHP 75,000.00 as exemplary damages for each count. All monetary awards are subject to 6% interest per annum from finality of this Resolution until fully paid.

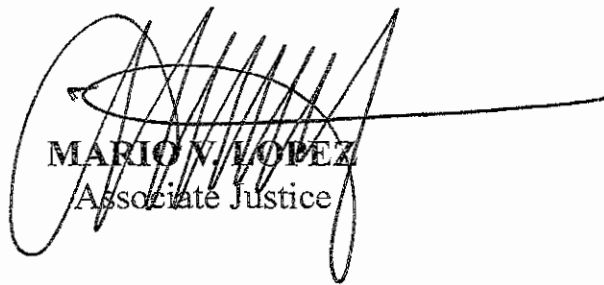
SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson



MARIO V. LOPEZ
Associate Justice



JHOSEP R. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
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.

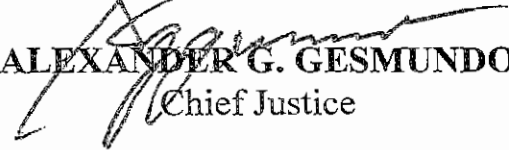


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

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CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice