

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RENATO S. MARTINEZ,

Petitioner,

G.R. No. 209057

Present:

- versus -

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
PERLAS-BERNABE, and
CAGUIOA, *JJ*.

JOSE MARIA V. ONGSIAKO,

Respondent.

Promulgated:

MAR 15 2017

X-----X

RESOLUTION

SERENO, *CJ*:

In this Petition for Review on Certiorari,¹ petitioner Renato S. Martinez seeks to set aside the Decision² and the Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 96202. He contends that the CA committed an egregious error when it denied his appeal from the Order⁴ and the Resolution⁵ of the Regional Trial Court (RTC) declaring that he had waived his right to cross-examine respondent Jose Maria V. Ongsiako during the proceedings for the perpetuation of the latter's testimony.

ANTECEDENT FACTS

The facts, as culled from the records, are as follows.

On 17 May 2010, respondent filed a Petition⁶ before the RTC of Makati seeking permission to perpetuate his testimony under Rule 24 of the

¹ Petition for Review on Certiorari dated 30 October 2013; *rollo*, pp. 9-28.

² *Rollo*, pp. 30-35; Decision dated 14 May 2013; penned by Court of Appeals Associate Justice Florito S. Macalino and concurred in by Associate Justices Sesinando E. Villon and Pedro B. Corales.

³ *Id.* at 37-39; Resolution dated 10 September 2013.

⁴ Records, pp. 315; Order given in open court by Presiding Judge J. Cedrick O. Ruiz on 18 August 2010.

⁵ *Id.* at 512-529; Resolution dated 8 November 2010; penned by Presiding Judge J. Cedrick O. Ruiz.

⁶ *Rollo*, pp. 40-46; Petition dated 11 May 2010.

Rules of Civil Procedure.⁷ He alleged that the taking of his deposition was necessary, because (a) he expected to be a party to certain actions involving properties in which he had an interest; (b) he was diagnosed with end-stage renal disease secondary to chronic glomerulonephritis; (c) his health continued to deteriorate; and (d) he needed to preserve his testimony on certain material facts in anticipation of future suits. He also identified the areas to be covered by his proposed testimony.⁸

In his Petition, respondent named the expected adverse parties in the actions he anticipated would be filed: (a) petitioner as the administrator of the estate of Nori V. Ongsiako; (b) Juan Miguel V. Ongsiako, respondent's brother; and (c) the Bank of the Philippines Islands (BPI), a mortgagee of a certain property over which respondent had an interest.

On 17 June 2010, petitioner filed a Comment/Opposition⁹ to the Petition. He objected to the proceedings on the ground that estate proceedings over the properties mentioned by respondent in the latter's petition were then pending before Branch 58 of the RTC Makati. He explained that it was more appropriate to perpetuate the testimony of respondent in those proceedings, since the latter was also an active participant in that case, in which the intended testimony would inevitably be used. Petitioner likewise asserted that the filing of a separate action for the perpetuation of testimony was tantamount to forum shopping.

In a Resolution¹⁰ dated 21 June 2010, the RTC granted the Petition. It noted that all the requirements under Rule 24 of the Rules of Court had been satisfied; hence, respondent should be allowed to perpetuate his testimony. The trial court ordered his deposition to be taken on 23 June 2010.

Petitioner, along with the other expected adverse parties, sought a reconsideration of the RTC Resolution. To resolve the motion, the trial court directed the parties to orally argue their grounds in support of, or against, the reconsideration of the earlier Resolution during the hearing on 23 June 2010.¹¹ After considering the contentions of all the parties, the RTC

⁷ The case was docketed as Civil Case No. 10-467 and assigned to Branch 61, RTC Makati.

⁸ In his Petition (supra note 1, at 43), respondent identified the circumstances in his proposed testimony as follows:

- a. The circumstances surrounding the execution of the [Special Powers of Attorney] in favor of Juan Miguel Ongsiako;
- b. The circumstances surrounding the execution of Mrs. Ongsiako's Last Will and Testament and the probate proceedings, including the identification of the properties belonging to petitioner's deceased parents, Atty. and Mrs. Oscar Ongsiako;
- c. The circumstances surrounding the constitution of REMs over Petitioner's properties;
- d. The circumstances surrounding the sale of some shares of stock in Industrial Realties, Inc.;
- e. The circumstances surrounding the transfer of some of Mrs. Ongsiako's properties to Juan Miguel V. Ongsiako; and
- f. Other matters related to the foregoing.

⁹ Records, pp. 16-22; Comment/Opposition [Re: Petition for the Perpetuation of Testimony of Jose Maria V. Ongsiako].

¹⁰ Id. at 31-34; Resolution dated 21 June 2010.

¹¹ Id. at 16-22; Order dated 23 June 2010.

thereafter denied the motions in open court.¹² The hearing then proceeded with the parties agreeing that the direct testimony of respondent would be taken through a judicial affidavit to be submitted on or before 4 June 2010, while the cross-examination by adverse parties would be on 7 July 2010.¹³ The RTC eventually reset the hearing scheduled for 7 July 2010 to 13 July 2010.¹⁴

On 13 July 2010, the hearing proceeded notwithstanding the absence of petitioner and his counsel, and the direct examination of respondent was concluded. The RTC thereafter scheduled the cross-examination of the expected adverse parties on 21 July, 4 August, and 11 August 2010.¹⁵

To allow the parties to attempt settlement negotiations, the scheduled cross-examination did not proceed on 21 July 2010. Instead, the RTC conducted confidence-building activities for respondent and his brother. The hearing on 4 August 2010 did not push through either, presumably for the same reason. The parties, however, failed to reach an agreement.

The inability of the parties to settle their conflict prompted the RTC to continue the proceedings on 11 August 2010. The scheduled hearing was, however, impeded by the withdrawal of appearance¹⁶ by the law firm representing Juan Miguel. Again, the trial court was constrained to cancel the cross-examination of respondent and reset the hearing to 18 August 2010.¹⁷ This directive was announced to all parties present in open court.¹⁸ For those who were absent during the hearing, such as petitioner and his counsel, the RTC directed that copies of the written order be served upon them.¹⁹

On 16 August 2010, the RTC received a copy of the Petition for Certiorari²⁰ filed by petitioner with the CA. The Petition questioned the Resolution dated 21 June 2010, as affirmed by the Order dated 23 June 2010, allowing the perpetuation of respondent's testimony in a separate proceeding.

On 18 August 2010, the cross-examination of respondent finally proceeded.²¹ Juan Miguel's new counsel requested for a continuance to have more time to prepare for the cross-examination, but the RTC denied his request upon noting that he had already been given sufficient time to do so.²² It likewise observed that the proceedings had already suffered many

¹² Id. at 35.

¹³ Id. at 36.

¹⁴ Id. at 39.

¹⁵ Id. at 138; Order dated 13 July 2010.

¹⁶ Id. at 153-154; Withdrawal of Appearance dated 6 August 2010.

¹⁷ Id. at 157-158; Order dated 11 August 2010.

¹⁸ Id. at 158.

¹⁹ Id.

²⁰ Id. at 163-180; Petition for Certiorari dated 10 August 2010.

²¹ Id. at 607-661; Transcript of Stenographic Notes (TSN), 18 August 2010.

²² Id. at 617.

delays.²³ BPI's counsel then proceeded to cross-examine respondent;²⁴ Juan Miguel's counsel, on the other hand, persisted in his refusal to participate in the proceedings.²⁵

As to petitioner and his counsel, both were again absent at the hearing.²⁶ The RTC noted, however, that petitioner had filed a Motion to Suspend Proceedings²⁷ right before the start of hearing on 18 August 2010. In his motion, he requested that the proceedings for the perpetuation of testimony be suspended pending the final resolution of the Petition for Certiorari earlier filed with the CA.

THE RULING OF THE RTC

Towards the end of the proceedings on 18 August 2010, the RTC issued an Order²⁸ declaring that petitioner and Juan Miguel had waived their right to cross-examine respondent:

Considering that Mr. Juan Miguel Ongsiako has been forewarned by the Court to be prepared to cross-examine the petitioner herein last week, he is hereby now deemed to have waived his right to cross-examine herein petitioner Jose Maria V. Ongsiako.

The prospective adverse party Renato Martinez is hereby also declared to have waived his right to cross-examine the herein petitioner.

A fortiori, the testimony of Mr. Jose Maria V. Ongsiako is now perpetuated.

Considering that the testimony of Jose Maria V. Ongsiako has already been perpetuated, the petition extant is now deemed CLOSED and TERMINATED.²⁹ (Emphasis supplied)

On 20 August 2010, counsel for petitioner appeared before the trial court for the hearing of the Motion to Suspend Proceedings. He was informed that the motion had merely been noted by the RTC, considering that the testimony of respondent had already been perpetuated.³⁰

Petitioner thereafter filed a Motion for Reconsideration³¹ of the Order dated 18 August 2010. He pointed out that neither he nor his counsel received notice of the scheduled hearing on 18 August 2010 and for this reason, they were not in court at the time. Petitioner emphasized that under the circumstances, their absence should not have been taken as a waiver of

²³ Id.

²⁴ Id. at 626-648.

²⁵ Id. at 648-658.

²⁶ Id. at 608, 660.

²⁷ Id. at 320-327; Motion to Suspend Proceedings dated 17 August 2010.

²⁸ Id. at 315; Order dated 18 August 2010.

²⁹ Id.

³⁰ Id. at 328; Order dated 20 August 2010.

³¹ Id. at 487-492; Motion for Reconsideration (Re: Order dated 18 August 2010).

his right to cross-examine respondent. He also argued that it was imperative for the trial court to allow all the expected adverse parties to cross-examine respondent in the interest of justice.

In a Resolution³² dated 8 November 2010, the RTC denied the Motion for Reconsideration. It ruled that petitioner and his counsel had been properly notified of the hearing, although the notice sent to counsel was returned unserved, because the latter had moved to a new address without notifying the trial court. The RTC also noted that petitioner and his counsel failed to attend the hearing on 11 August 2010 despite due notice, and that their absence caused them to miss the announcement of the resetting. The Resolution stated:

Contrary to the stand of Mr. Martinez, he is legally and judicially presumed to have been validly and duly notified of the 18 August 2010 hearing apropos.

x x x x

Since the counsel of record of Mr. Juan Miguel withdrew his appearance on the very same day of 11 August 2010, the Court had no other option left but to cancel the 11 August 2010 schedule and reset the same to 18 August 2010 at ten o'clock in the morning. It is to be underscored that it was incumbent upon Mr. Martinez and/or his counsel to have attended the 11 August 2010 setting but they unjustifiably did not. At any rate, facsimiles of the 11 August 2010 Order of the Court were served by registered mail to both Mr. Martinez and his attorney. However, the copy for the counsel of record for Mr. Martinez was returned unserved as the Ongsiako Dela Cruz Antonio and Tintiman Law Firm moved out of its office sans apprising the Court accordingly. It goes without saying that the counsel for Mr. Martinez was inexcusably negligent in not informing this Court of its change of address at once so the Court could have sent the copy of its 11 August 2010 Order to its new address. But it lamentably did not. Its negligence definitely binds its client, Mr. Martinez.

In fine, the aforementioned are the reasons why this Court deemed Mr. Martinez to have waived its right to cross-examine Mr. Ongsiako.³³

On 24 November 2010, petitioner filed a Notice of Appeal³⁴ with the RTC to manifest his intention to elevate the matter to the CA. The trial court gave due course to the appeal on 25 November 2010.³⁵

THE RULING OF THE CA

In his appeal before the CA, petitioner claimed that the RTC had deprived him of the right to cross-examine respondent in violation of the fundamental principles of due process.³⁶ Petitioner contradicted the trial court's pronouncement that he had been given sufficient notice of the

³² Id. at 512-529; Resolution dated 8 November 2010.

³³ Id. at 517-519.

³⁴ Id. at 531-533; Notice of Appeal dated 23 November 2010.

³⁵ Id. at 538; Order dated 25 November 2010.

³⁶ CA *rollo*, pp. 38-69 Brief for Oppositor-Appellant dated 5 August 2011.

hearing to be held on 18 August 2010. He pointed out that the records clearly showed that the copy intended for his counsel had been sent to the wrong address.³⁷ Petitioner likewise emphasized that the RTC erred in allowing respondent to perpetuate testimony in a separate proceeding.³⁸

Respondent, on the other hand, sought the dismissal of the appeal. He maintained that the RTC did not err in giving due course to the Petition for the perpetuation of testimony;³⁹ and that it correctly ruled that petitioner had waived the latter's right to cross-examination.⁴⁰

In a Decision⁴¹ dated 14 May 2013, the CA denied the appeal. It ruled that since depositions consist merely in the taking down of statements of witnesses for discovery purposes, the rules governing the procedure are accorded a broad and liberal treatment:

Thus, the perpetuation of testimony is not a trial where the opposing party has to introduce his evidence. It is again, merely taking down the statements of the witnesses with opportunity to cross-examine them. That the opportunity for cross-examination was afforded during the taking of the deposition does not matter as much as whether such opportunity was accorded a party at the time the testimonial evidence is actually presented against him during the trial or hearing. Deposition-discovery rules are to be accorded a broad and liberal treatment and the liberty of a party to make discovery is well-nigh unrestricted if the matters inquired into are otherwise relevant and not privileged, and the inquiry is made in good faith and within the bounds of the law.

x x x x

Guided by these principles, oppositor-appellant's contentions are clearly wanting in merit. Utmost freedom is allowed in taking depositions and restrictions are imposed upon their use. No limitations other than relevancy and privilege have been placed on the taking of depositions. Oppositor-appellant has the burden to show that the deposition requested is not relevant to the issues and/or establish the existence of any claimed privilege. These, the oppositor-appellant has failed to do.⁴²

Petitioner sought a reconsideration of the Decision but the CA denied the motion. In its Resolution, it reiterated its discussion on the nature of depositions. In addition, it affirmed the findings of the RTC on the waiver of petitioner's right to cross-examine respondent. The appellate court ruled that the failure of petitioner and his counsel to attend hearings without justification was sufficient to warrant the waiver of the party's right to cross-examination.⁴³

³⁷ Id. at 58-61.

³⁸ Id. at 63-67.

³⁹ Id. at 124-130.

⁴⁰ Id. at 118-124.

⁴¹ Decision dated 14 May 2013, *supra* note 2.

⁴² Id. at 33-35.

⁴³ Id. at 38.

PROCEEDINGS BEFORE THIS COURT

Before this Court, petitioner asserts that the CA erred in affirming the pronouncements of the RTC. He reiterates his arguments on the invalidity of the trial court's ruling citing due process grounds. He likewise insists that it was a grave error for the RTC to allow the perpetuation of respondent's testimony in a separate proceeding despite the pendency of a related estate case. In doing so, the trial court allegedly allowed respondent to commit forum shopping.

In his Opposition,⁴⁴ respondent seeks the dismissal of the petition on the following grounds: (a) failure to raise new issues for the consideration of this Court; (b) absence of proof that the CA committed a reversible error in affirming the RTC ruling; (c) the negligence exhibited by petitioner and his counsel in their failure to attend hearings before the RTC, which thereby justified the Order depriving petitioner of the right to cross-examination; and (d) the absence of any proof that respondent committed forum shopping.

ISSUE

We note the attempt of petitioner to raise before this Court the issue of whether the CA correctly ruled that the deposition of respondent was properly taken in a separate proceeding. From the records of this case, however, it is evident that this very question was the subject of a Petition for Certiorari⁴⁵ earlier filed by petitioner before the CA. Both parties have neglected to inform this Court of the outcome of the case. Nonetheless, the existence of that petition renders it improper for us to rule on that question.

In any event, the RTC Order and Resolution assailed in this case only involve the supposed waiver by petitioner of his right to cross-examine respondent. Hence, the sole issue presented to this Court for resolution is whether the CA correctly affirmed the RTC ruling that declared petitioner to have waived his right to cross-examination.

OUR RULING

We **GRANT** the Petition.

An examination of the records of the RTC reveals that petitioner and his counsel had not been properly notified of the hearing to be held on 18 August 2010. Consequently, their failure to attend the hearing must be considered an excusable circumstance, and not a waiver of the right to cross-examine respondent. It is therefore evident that the CA committed a reversible error when it sustained the pronouncement of the RTC depriving petitioner of his right to cross-examine respondent.

⁴⁴ *Rollo*, pp. 64-88; Opposition [to the Petition for Review on Certiorari dated 30 October 2013].

⁴⁵ See Petition for Certiorari dated 10 August 2010, *supra* note 20.

The right to cross-examine opposing witnesses has long been considered a fundamental element of due process in both civil and criminal proceedings.⁴⁶

In proceedings for the perpetuation of testimony, the right to cross-examine a deponent is an even more vital part of the procedure. In fact, the Revised Rules on Evidence provide that depositions previously taken are only admissible in evidence against an adverse party who had the opportunity to cross-examine the witness.⁴⁷ Because depositions are an exception⁴⁸ to the general rule on the inadmissibility of hearsay testimony, the process of cross-examination is an important safeguard against false statements. As the Court explained in *Republic v. Sandiganbayan*:⁴⁹

The function of cross-examination is to test the truthfulness of the statements of a witness made on direct examination. The opportunity of cross-examination has been regarded as an essential safeguard of the accuracy and completeness of a testimony. In civil cases, the right of cross-examination is absolute, and is not a mere privilege of the party against whom a witness may be called. This right is available, of course, at the taking of depositions, as well as on the examination of witnesses at the trial. The principal justification for the general exclusion of hearsay statements and for the admission, as an exception to the hearsay rule, of reported testimony taken at a former hearing where the present adversary was afforded the opportunity to cross-examine, is based on the premise that the opportunity of cross-examination is an essential safeguard against falsehoods and frauds.⁵⁰ (Citations and italics omitted)

Nevertheless, it is true that the right to cross-examination is far from absolute. Indeed, it may be waived by conduct amounting to a renunciation of the right; for instance, the failure of a party to avail itself of the opportunity to cross-examine a deponent.⁵¹ In *Luncheonette v. Lakas ng Manggagawang Pilipino*,⁵² the Court explained:

The right of a party to confront and cross-examine opposing witnesses in a judicial litigation, be it criminal or civil in nature, or in proceedings before administrative tribunals with quasi-judicial powers, is a fundamental right which is part of due process. However, the right is a personal one which may be waived expressly or impliedly by conduct amounting to a renunciation of the right of cross-examination. **Thus, where a party has had the opportunity to cross-examine a witness but failed to avail himself of it, he necessarily forfeits the right to cross-**

⁴⁶ *Vertudes v. Buenaflor*, 514 Phil. 399 (2005) citing *Fulgado v. CA*, 261 Phil. 189 (1990) and *Savory Luncheonette v. Lakas ng Manggagawang Pilipino*, 159 Phil. 310 (1975).

⁴⁷ Rule 130, Section 47 of the Rules of Court, provides:

SEC. 47. Testimony or deposition at a former proceeding. — The testimony or deposition of a witness deceased or unable to testify, given in a former case or proceeding, judicial or administrative, involving the same parties and subject matter, may be given in evidence against the adverse party who had the opportunity to cross-examine him.

⁴⁸ See Rule 130(C)(6) for the list of exceptions to the hearsay rule.

⁴⁹ 678 Phil. 358 (2011).

⁵⁰ *Id.* at 417.

⁵¹ *Ayala Land Inc. v. Tagle*, 504 Phil. 94 (2005).

⁵² 159 Phil. 310 (1975).

examine and the testimony given on direct examination of the witness will be received or allowed to remain in the record.

The conduct of a party which may be construed as an implied waiver of the right to cross-examine may take various forms. **But the common basic principle underlying the application of the rule on implied waiver is that the party was given the opportunity to confront and cross-examine an opposing witness but failed to take advantage of it for reasons attributable to himself alone.**⁵³ (Emphases supplied)

In this case, we find that the conduct of petitioner cannot be construed as a waiver of his right to cross-examine respondent.

The ruling of the RTC declaring that petitioner waived his right to cross-examination was premised on his failure to attend the scheduled hearing on 18 August 2010. However, the records of the case reveal that neither he nor his counsel was adequately informed of the new schedule for the cross-examination of respondent. While the RTC ordered that Notices of Hearing be sent to both petitioner and his counsel, they did not receive these processes in time for the hearing through no fault of their own.

With respect to the Notice of Hearing sent to petitioner himself, the registry receipt attached to the records of the RTC indicates that the letter was only received on 14 September 2010.⁵⁴ The reason for the delay in the delivery of the notice is unclear.

On the other hand, the Notice of Hearing sent to petitioner's counsel never reached the intended recipient because of the incorrect address indicated on the registered envelope containing the letter. Based on the records, the address of Ongsiako Dela Cruz Antonio & Timtiman, counsel for petitioner, was indicated as "Second Floor, Number 134 Sedeño Street, Salcedo Village, Makati" in the pleadings it filed prior to the hearing.⁵⁵ In contrast, the envelope containing the Notice of Hearing for 18 August 2010 was addressed to the same law firm, but with the address indicated as "Second Floor, Ortigas Building, Ortigas Avenue, Pasig City."⁵⁶ Because of the error in the address, the letter was returned to the RTC with the notation "RTS moved out."

After due consideration of the above circumstances, we conclude that the absence of petitioner and his counsel at the hearing was clearly not due to their own fault.


The failure of petitioner to receive the Notice of Hearing prior to the date of the scheduled cross-examination is not attributable to him. In *Soloria*

⁵³ Id. at 315-318.

⁵⁴ Records, p. 159.

⁵⁵ See Comment/Opposition, supra note 9; Urgent Ex Parte Motion to Reset Hearing; records, pp. 98-101.

⁵⁶ Id. at 366.



v. De la Cruz,⁵⁷ the Court considered a similar circumstance as an “accident” that would justify the grant of a new trial:

We disagree with the above conclusion of the court *a quo*. It is not disputed that counsel for respondents (petitioners herein) did not receive notice of hearing on or before June 8, 1962, which was the scheduled date of trial; hence, they failed to attend said hearing. This circumstance, i.e., failure to attend trial for lack of advance notice, has been held in previous cases to constitute an “accident” within the meaning of Section 1, Rule 37, of the (old or revised) Rules of Court which, in turn, is a proper and valid ground to grant a new trial (*Muerteguy v. Delgado*, 22 Phil. 109 [1912]; *Lavitoria v. Judge of Court of First Instance of Tayabas*, 32 Phil. 204 [1915]; *Villegas v. Roldan*, 76 Phil 349 [1946]). x x x.

As regards the incorrectly addressed Notice meant for petitioner’s counsel, we find no basis to hold it responsible for this error. Contrary to the pronouncement of the RTC, petitioner’s counsel did not change its address prior to the hearing on 18 August 2010. The inaccurate address used to send notices and processes to the law firm was solely due to the oversight of the trial court. The ruling in *Cañas v. Castigador*⁵⁸ is therefore applicable:

The lack of notice of hearing, however, is not the only legal infirmity on this issue because, as earlier shown, the registered mail containing copies of the respondent judge's order dated August 14, 1996 and September 11, 1996 *never reached petitioner as they were returned to sender (RTS) because of the imprecise and incomplete address, "c/o Pepsi Cola Products, Phils., Inc., San Fernando Plant" stamped on the envelope*. For the appellate court to fault petitioner for her failure to receive the lower court's processes is unfair or unreasonable because it cannot be gainsaid that her address was clearly stated in her handwritten note dated May 23, 1996 addressed to respondent judge.


Taking all factors into account, it would be unfair and unjust to consider the failure of petitioner to attend the hearing on 18 August 2010 as signifying his intention to waive the right to cross-examine respondent. For this reason, we are compelled to remand the case to the RTC to allow petitioner to conduct his cross-examination of respondent.

WHEREFORE, the Petition for Review is hereby **GRANTED**. The Decision and the Resolution of the Court of Appeals dated 14 May 2013 and 10 September 2013, respectively, in CA-G.R. CV No. 96202 are **SET ASIDE**. The case is **REMANDED** to the Regional Trial Court to allow petitioner Renato S. Martinez to conduct the cross-examination of respondent Jose Maria V. Ongsiako.


⁵⁷ 122 Phil. 1218 (1966).

⁵⁸ 401 Phil. 613 (2000).

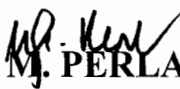
SO ORDERED.

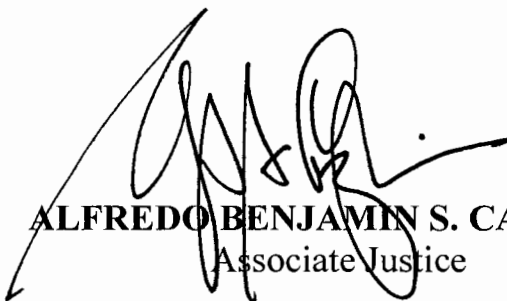

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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