



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SABINIANO DUMAYAG,
Petitioner,

G.R. No. 172778

Present:

LEONARDO-DE CASTRO,* *J.*,
PERALTA, *Acting Chairperson*,**
ABAD,
MENDOZA, and
LEONEN, *JJ.*

- versus -

**PEOPLE OF THE
PHILIPPINES,**
Respondent.

Promulgated:

26 November 2012

X ----- *Macapiano* ----- X

DECISION

MENDOZA, J.:

Before the Court is a petition for review under Rule 45 of the Rules of Court seeking the reversal of the November 26, 2004 Decision¹ and the May 10, 2006 Resolution² of the Court of Appeals (*CA*), in CA-G.R. CR No. 26513, which affirmed the June 24, 2002 Decision³ of the Regional Trial Court, Branch 21, Cebu City (*RTC*). The *RTC* decision upheld with

* Designated acting member, per Special Order No. 1361 dated November 19, 2012.

** Per Special Order No. 1360 dated November 19, 2012.

¹ *Rollo*, pp. 71-80. Penned by Associate Justice Arsenio J. Magpale and concurred in by Associate Justice Mariflor P. Punzalan Castillo and Associate Justice Ramon M. Bato, Jr.

² *Id.* at 88-89.

³ *Records*, pp. 315-337.

modification the Decision⁴ of the Municipal Trial Court of San Fernando, Cebu City (*MTC*), finding accused Sabiniano Dumayag (*petitioner*) guilty of the complex crime of reckless imprudence resulting in multiple homicide and reckless imprudence resulting in physical injuries.

The Facts:

On July 6, 1995, at around 11:30 o'clock in the morning, along the national highway in Magtalisay, Sangat, San Fernando, Cebu, a passenger bus of Petrus Bus Liner (*passenger bus*), driven by petitioner, collided with a tricycle driven by Elsie Genayas (*Genayas*), resulting in the death of four (4) persons and causing physical injuries to five (5) others, who were all passengers of the tricycle.⁵ The passenger bus was bound for Dalaguete, Cebu, while the tricycle came from the opposite direction, going towards Cebu City. At the time of the mishap, the tricycle was overtaking a Mitsubishi pick-up when it collided with a passenger bus coming from the opposite direction.⁶

Petitioner was charged before the MTC with reckless imprudence resulting in multiple homicide for the deaths of Genayas, Orlando Alfanta (*Alfanta*), Grace Israel (*Israel*), and Julius Amante (*Amante*); and with reckless imprudence resulting in serious physical injuries sustained by Crispin Cañeda, Jannette Bacalso, Carmela Lariosa, Fediliza Basco (*Basco*), and Nelfe Agad (*Agad*) and damage to property.⁷

During the trial, one of the witnesses presented by the prosecution was Rogelio Cagakit (*Cagakit*), a driver of Badian Island Resort. He testified that on July 6, 1995, at around 11:30 o'clock in the morning, he was driving a Mitsubishi Pajero with tourist passengers bound for Cebu City; that along

⁴ Id. at 257-270.

⁵ Id. at 8.

⁶ *Rollo*, pp. 71-74.

⁷ Records, p. 3.

the national highway somewhere in Barangay Magtalisay, Balud, San Fernando, Cebu, he was trailing a tricycle bearing a total of 8 passengers; that upon reaching the first blind curve of the road, he noticed the tricycle following a Mitsubishi pick-up; that when the Mitsubishi pick-up slowed down upon reaching the second blind curve, the tricycle tried to overtake the pick up and, while overtaking, a fast moving vehicle from the opposite direction hit the tricycle which was thrown towards his direction; and that two passengers of the tricycle died on the spot.⁸

Senior Police Officer 3 Gregorio Patalinghug (*SPO3 Patalinghug*) was also presented as a witness and he narrated that on the said date and time he and Senior Police Officer 2 Felipe Yap (*SPO2 Yap*) responded to a report about a traffic accident somewhere in Magtalisay, Balud, San Fernando, Cebu. When they arrived at the place, SPO2 Yap immediately boarded the injured victims in a vehicle and brought them to the hospital. He noticed two lifeless bodies lying on the road, later identified as those of Alfanta and Genayas. He then inspected the place of the incident; measured the relative positions of the tricycle, the Mitsubishi Pajero and passenger bus; and drew a sketch. From the sketch, he identified the point of impact, which was one (1) foot away from the centerline of the road, crossing the lane occupied by the passenger bus. He also pointed to the skid mark, about sixty (60) feet in length, produced by the bus when its driver stepped on the brake pedal. Based on his observation from the point of impact and on the information he gathered from several persons present at the time of the accident, he was of the opinion that the driver of the tricycle was at fault.⁹

The prosecution also presented Cañeda, Agad and Basco, who related the collision they witnessed. The parents of the victims and the owner of the tricycle, meanwhile, both testified on their respective claims for damages;

⁸ TSN, July 11, 1997, pp. 3-27.

⁹ TSN, August 7, 1997, pp. 3-25.

while Dr. Rolando Anzano, reported his findings on the injuries sustained by the victims.

In his defense, petitioner testified that he was a professional driver for 26 years and worked for five (5) different employers, the fifth of which was the Petrus Bus Liner; that his everyday route was from Dalaguete, Cebu to Cebu City and back, with two (2) round trips a day; that he was familiar with the road since he had been traversing it for around 20 years; that the road where the accident happened had two (2) blind curves and upon approaching the first blind curve, he slowed down by stepping on the brakes; that while negotiating the second blind curve, he noticed that his lane was clear and so he stepped on the accelerator in order to gain momentum; that it was at this moment that the tricycle while in the process of overtaking a vehicle ahead of it, suddenly occupied his lane; that he tried to avoid hitting the tricycle but to no avail; that he could not swerve the bus to the left because there was another vehicle occupying the same; and he could not also swerve the bus to the road shoulder on the right side of the lane because it was sloping down and there was a canal. He posited that the accident would not have taken place at all if the tricycle driver had not attempted to overtake another vehicle and occupied his lane.¹⁰

On March 18, 1999, the MTC found petitioner guilty beyond reasonable doubt of the crime of reckless imprudence resulting in multiple homicide.¹¹ It explained:

Taking into account the circumstances and condition of the road there being two (2) blind curves involved, the length of the skidmark produced at sixty (60) feet in length clearly speaks for itself that the accused drove and operated the passenger bus negligently without taking the necessary precautions and without due regard to the road condition.

Simpl[y] stated, if in the exercise of reasonable care as contended by the accused, the speed of the passenger bus at that

¹⁰ TSN, April 3, 1998 & June 26, 1998, pp. 3-36 & 2-13.

¹¹ Records, pp. 257-270.

time was commensurate and corresponds with the demands of the circumstances and conditions of the road where as is obtaining, the conditions are such as to increase the danger of accident, no matter how sudden the tricycle appeared at the bus' front, indisputably, the skid mark produced would not have reached that much or the accident may have been avoided and if not, the damage or injuries caused could only be slight and manageable.¹²

The dispositive portion reads:

WHEREFORE, finding the accused, Sabiniano Dumayag, guilty beyond reasonable doubt of the crime of reckless imprudence resulting in multiple homicide, he is sentenced to suffer the penalty of imprisonment of two (2) years and one (1) day minimum to three (3) years, six (6) months and twenty (20) days maximum and to pay the following civil liabilities:

1. To the surviving heirs of deceased Orlando Alfanta:
 - a. ₱50,000.00 death Indemnity;
 - b. ₱50,000.00 for wake, funeral, burial and other related miscellaneous expenses; and
 - c. ₱20,000.00 moral damages for the agony, mental anguish and sorrow suffered by the surviving heirs;
2. To the surviving heirs of deceased Julius Amante;
 - a. ₱50,000.00 death Indemnity;
 - b. ₱50,000.00 for wake, funeral, burial and other related miscellaneous expenses; and
 - c. ₱20,000.00 moral damages for the agony, mental anguish and sorrow suffered by the surviving heirs;
3. To the surviving heirs of deceased Grace Israel:
 - a. ₱50,000.00 death Indemnity;
 - b. ₱50,000.00 for wake, funeral, burial and other related miscellaneous expenses; and
 - c. ₱20,000.00 moral damages for the agony, mental anguish and sorrow suffered by the surviving heirs;

plus ₱50,000.00 by way of attorney's fees and ₱20,000.00 exemplary damages.

With costs against the accused.

SO ORDERED.¹³

¹² Id. at 266.

¹³ Id. at 269-270.

On appeal, the RTC affirmed with modification the decision of the MTC.¹⁴ The modified judgment reads:

WHEREFORE, in view of the foregoing premises, the appealed decision is hereby AFFIRMED but modified as follows:

1. For the complex crime of reckless imprudence resulting in multiple homicide of Alfante, Israel and Amante, accused is sentenced to suffer the indeterminate penalty of TWO (2) YEARS and FOUR (4) MONTHS (of *arresto mayor* in its maximum period to *prision correccional* in its minimum period), as minimum, to SIX (6) YEARS (of *prision correccional* in its medium and maximum periods), as the maximum thereof, with all the accessory penalties thereto.

2. For reckless imprudence resulting in slight physical injuries accused is sentenced to PUBLIC CENSURE for the injuries sustained by each of the private complainants, to wit, Canieda, Bacalso, Lariosa, Bascon and Agad. In other words, accused is sentenced to said penalty for as many private complainants as were injured.

3. For his civil liabilities, accused is directed –

3.1 To pay the surviving heirs of each of the deceased tricycle passengers, namely, Alfante, Amante and Israel the following:

3.1.1 Fifty Thousand Pesos (₱50,000.00) for the death each of the defendant;

3.1.2 Thirty Thousand Pesos (₱30,000.00) for the wake, funeral, burial and other related expenses in connection with the said death;

3.1.3 Twenty Thousand Pesos (₱20,000.00) for moral damages

3.1.4 Ten Thousand Pesos (₱10,000.00) for exemplary damages;

¹⁴ Id. at 315-337.

3.1.5 Twenty Thousand
(₱20,000.00) pesos as attorney's
fees.

3.2 To pay Beethoven Bernabe, the
owner of the damaged tricycle, EIGHTY
THOUSANDS PESOS (₱80,000.00) as
compensatory damage representing the value of
the said property after deducting therefrom its
salvage value and allowance for depreciation;
and

3.3 The costs.

SO ORDERED.¹⁵

The CA affirmed *in toto* the decision of the RTC. It found the petitioner and the tricycle driver equally guilty of negligence, the former for failing to observe the precautionary measure when approaching a blind curve and the latter for unsuccessfully overtaking a vehicle. The CA stated that the petitioner should have been more careful considering that the area had blind curves and there could be oncoming vehicles from the other side. The fact that petitioner was driving on the right side of the road did not relieve him of the obligation of exercising due and ordinary care to prevent collision and avoid injury to persons or property, including others who may be on the wrong side of the road.¹⁶

Petitioner filed a motion for reconsideration, but it was denied in a Resolution, dated May 10, 2006.

Hence, this petition raising the following issues:

WHETHER OR NOT NEGLIGENCE, IMPRUDENCE AND RECKLESSNESS WAS CORRECTLY ATTRIBUTED TO PETITIONER BY THE COURTS BELOW WHEN THE VEHICULAR MISHAP COMPLAINED OF IN THIS PROCEEDING OCCURRED LAST 6 JULY 1995;

IF INDEED PETITIONER WAS NEGLIGENT, RECKLESS AND IMPRUDENT WHEN THE MISHAP LITIGATED IN THIS PROCEEDING OCCURRED LAST 6 JULY 1995, WHETHER OR

¹⁵ Id. at 336-337.

¹⁶ *Rollo*, pp. 71-80.

**NOT SAID NEGLIGENCE, RECKLESSNESS AND IMPRUDENCE,
WAS THE PROXIMATE CAUSE OF THE SAME;**

**WHETHER OR NOT PETITIONER'S CONVICTION, AS
SUSTAINED BY THE COURT OF APPEALS, IS VIOLATIVE OF
HIS CONSTITUTIONAL RIGHTS TO DUE PROCESS OF LAW
AND TO BE PRESUMED INNOCENT OF THE CRIME
CHARGED AT BAR.¹⁷**

Petitioner argues that his guilt was not proven beyond reasonable doubt, claiming that the vehicular mishap was purely an accident. He insists that he was not negligent, reckless and imprudent in the operation of the motor vehicle at the time of the accident and that he was driving the bus on the lane properly belonging to him at a moderate speed.

He asserts that the proximate cause of the accident was the negligent, reckless and imprudent act of the tricycle driver, who suddenly overtook another vehicle while approaching a blind curve. He stresses that had the tricycle driver not attempted to suddenly overtake another vehicle while approaching a blind curve, the accident would not have taken place.

Petitioner further avers that, at the time of the accident, the tricycle was overloaded with eight passengers, in addition to the driver; that the driver of the tricycle was operating along the national highway, a route specifically prohibited under the franchise; and that the tricycle driver also violated Section 41 (a) and (b) of Republic Act (R.A.) No. 4136,¹⁸ as amended, otherwise known as the Land Transportation and Traffic Code of the Philippines when he tried to overtake another vehicle while approaching a blind curve of the highway. Therefore, due to serious violations committed

¹⁷ Id. at 16.

¹⁸ **Section 41.** *Restrictions on overtaking and passing.*

(a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking or passing another vehicle proceeding in the same direction, unless such left side is clearly visible, and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking or passing to be made in safety.

(b) The driver of a vehicle shall not overtake or pass another vehicle proceeding in the same direction, when approaching the crest of a grade, not upon a curve in the highway, where the driver's view along the highway is obstructed within a distance of five hundred feet ahead, except on a highway having two or more lanes for movement of traffic in one direction where the driver of a vehicle may overtake or pass another vehicle: Provided, That on a highway within a business or residential district, having two or more lanes for movement of traffic in one direction, the driver of a vehicle may overtake or pass another vehicle on the right.

by the tricycle driver, the resulting deaths and injuries arising from the vehicular accident should be his sole responsibility.¹⁹

The Court finds merit in the petition.

Well-settled is the rule that findings of fact of the trial court, especially when affirmed by the CA, are binding and conclusive upon this Court.²⁰ The Court, however, recognizes several exceptions to this rule, to wit: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of fact are conclusions without citation of specific evidence on which they are based; (8) when the CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (9) when the findings of fact of the CA are premised on the absence of evidence and are contradicted by the evidence on record.²¹ Several exceptions obtain in this case; hence, a departure from the general rule is warranted.

The MTC, the RTC and the CA found petitioner guilty beyond reasonable doubt of reckless imprudence resulting in homicide and physical injuries and damage to property. They all concluded that petitioner was guilty because he was driving fast at the time of the collision. Consequently, he was sentenced to suffer the penalty of imprisonment and ordered to pay the victims civil indemnity.

¹⁹ *Rollo*, pp. 9-30.

²⁰ *Lambert v. Heirs of Ray Castillon*, 492 Phil. 384, 389 (2005).

²¹ *Estacion v. Bernardo*, 518 Phil. 388, 398-399 (2006).

Reckless imprudence, as defined by our penal law, consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.²² In order to establish a motorist's liability for the negligent operation of a vehicle, it must be shown that there was a direct causal connection between such negligence and the injuries or damages complained of.²³ Thus, to constitute the offense of reckless driving, the act must be something more than a mere negligence in the operation of a motor vehicle, and a willful and wanton disregard of the consequences is required.²⁴

After going over the records of this case, the Court is unable to sustain the findings of fact and conclusion reached by the courts below. The totality of the evidence shows that the proximate cause of the collision was the reckless negligence of the tricycle driver, who hastily overtook another vehicle while approaching a blind curve, in violation of traffic laws.

Proximate cause is defined as that cause, which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred. And more comprehensively, the proximate legal cause is that acting first and producing the injury, either immediately or by setting other events in motion, all constituting a natural and continuous chain of events, each having a close causal connection with its immediate predecessor, the final event in the chain immediately effecting the injury as a natural and probable result of the cause which first acted, under such circumstances that the person responsible for the first event should, as an ordinary prudent and intelligent person, have reasonable ground to expect at the moment of his act or default that an injury to some person might probably result therefrom.²⁵

²² Art. 365, Revised Penal Code.

²³ *Gaid v. People*, G.R. No. 171636, April 7, 2009, 584 SCRA 489, 498-499.

²⁴ *Caminos, Jr. v. People*, G.R. No. 147437, May 8, 2009, 587 SCRA 348, 357.

²⁵ *Vallacar Transit v. Catubig*, G.R. No. 175512, May 30, 2011, 649 SCRA 281, 295-296.

The evidence indubitably shows that before the collision, the passenger bus was cruising along its rightful lane when the tricycle coming from the opposite direction suddenly swerved and encroached on its lane. The accident would not have happened had Genayas, the tricycle driver, stayed on his lane and did not recklessly try to overtake another vehicle while approaching a blind curve. Section 37 of R.A. No. 4136, as amended, mandates all motorists to drive and operate vehicles on the right side of the road or highway. When overtaking another, it should be made only if the highway is clearly visible and is free from oncoming vehicle. Overtaking while approaching a curve in the highway, where the driver's view is obstructed, is not allowed.²⁶ Corollarily, drivers of automobiles, when overtaking another vehicle, are charged with a high degree of care and diligence to avoid collision. The obligation rests upon him to see to it that vehicles coming from the opposite direction are not taken unaware by his presence on the side of the road upon which they have the right to pass.²⁷

The MTC opined that the accident could have been avoided or damage or injuries could only be slight and manageable, if the speed of the passenger bus was commensurate with the demands of the circumstances and the condition of the road. The Court, however, cannot subscribe to the conclusion that petitioner was driving fast and without regard to the condition of the road at the time of the collision.

The testimony of Cagakit that the passenger bus was running fast at the time of the collision lacks probative value. The actual speed of the bus was not established because he merely stated that when the tricycle was trying to overtake the Mitsubishi pick-up, a fast moving vehicle hit it. Also, it was not indubitably shown that petitioner was driving at a speed beyond

²⁶ Section 41 (a) (b) of Republic Act No. 4136.

²⁷ *United States v. Crame*, Separate Opinion, 30 Phil. 2, 21-22 (1915).

the rate allowed by law.²⁸ In a similar case, *Vallacar Transit, Inc. v. Catubig*,²⁹ the Court, in adopting the conclusion of the RTC, wrote:

Based on the evidence on record, it is crystal clear that the immediate and proximate cause of the collision is the reckless and negligent act of Quintin Catubig, Jr. and not because the Ceres Bus was running very fast. Even if Ceres Bus is running very fast on its lane, it could not have caused the collision if not for the fact that Quintin Catubig, Jr. tried to overtake a cargo truck and encroached on the lane traversed by the Ceres Bus while approaching a curve. As the driver of the motorcycle, Quintin Catubig, Jr. has not observed reasonable care and caution in driving his motorcycle which an ordinary prudent driver would have done under the circumstances. Recklessness on the part of Quintin Catubig, Jr. is evident when he tried to overtake a cargo truck while approaching a curve in Barangay Donggo-an, Bolisong, Manjuyod, Negros Oriental. x x x.

Furthermore, it was undisputed that the tricycle was overloaded, with a total of eight (8) passengers (excluding the driver), which is a clear violation of traffic rules and regulation. It was likewise admitted by the owner of the tricycle, Beethoven Bernabe (*Bernabe*), that his driver violated the conditions specified in the tricycle franchise which prohibited all

²⁸ Republic Act No. 4136, Section 35. *Restriction as to speed.* -

(a) Any person driving a motor vehicle on a highway shall drive the same at a careful and prudent speed, not greater nor less than is reasonable and proper, having due regard for the traffic, the width of the highway, and of any other condition then and there existing; and no person shall drive any motor vehicle upon a highway at such a speed as to endanger the life, limb and property of any person, nor at a speed greater than will permit him to bring the vehicle to a stop within the assured clear distance ahead.

(b) Subject to the provisions of the preceding paragraph, the rate of speed of any motor vehicle shall not exceed the following:

| MAXIMUM ALLOWABLE SPEEDS | Passengers Cars and Motorcycle | Motor trucks and buses |
|--|-----------------------------------|------------------------|
| 1. On open country roads, with no "blinds corners" not closely bordered by habitations. | 80 km. per hour | 50 km. per hour |
| 2. On "through streets" or boulevards, clear of traffic, with no "blind corners," when so designated. | 40 km. per hour | 30 km. per hour |
| 3. On city and municipal streets, with light traffic, when not designated "through streets". | 30 km. per hour | 30 km. per hour |
| 4. Through crowded streets, approaching intersections at "blind corners," passing school zones, passing other vehicles which are stationery, or for similar dangerous circumstances. | 20 km. per hour | 20 km. per hour |

²⁹ *Supra* note 25, at 296.

tricycles to travel along the national highway. In fact, he admitted that Genayas was only the alternate driver of his son and that he did not interview him anymore when he applied as a company driver because he was a neighbor and a nephew of his wife. For said reason, the award of damages to Bernabe by the courts below has no justifiable basis.

The immediate and proximate cause being the reckless and imprudent act of the tricycle driver, petitioner should be acquitted. Nevertheless, he is civilly liable. The rule is that an “acquittal of the accused, even if based on a finding that he is not guilty, does not carry with it the extinction of the civil liability based on *quasi delict*.”³⁰

Under the proven circumstances, there was contributory negligence on the part of petitioner. It is to be noted that there were two blind curves along the national highway. Having travelled along it for the past 20 years, he was aware of the blind curves and should have taken precaution in operating the passenger bus as it approached them. In the situation at hand, he did not exercise the necessary precaution. After negotiating the first curve, he claimed to have stepped on the accelerator pedal because his lane was clear. According to SPO2 Patalinghug, he found skid marks produced by the passenger bus. It could only mean that petitioner had slammed on the brake brought about by the sudden emergence of the tricycle in front of him. Notwithstanding, it was still short of reckless or criminal negligence as he was driving along his rightful lane.

Considering that the proximate cause was the negligence of the tricycle driver and that negligence on the part of petitioner was only contributory, there is a need to mitigate the amounts of the civil liability imposed on the latter. The determination of the mitigation of the civil liability varies depending on the circumstances of each case.³¹ The Court

³⁰ *Heirs of Late Guaring, Jr. v. Court of Appeals*, 336 Phil. 274, 279 (1997).

³¹ *Lambert v. Heirs of Ray Castillon*, supra note 17, at 392.

allowed the reduction of 50% in *Rakes v. Atlantic Gulf & Pacific Co.*,³² 20% in *Phoenix Construction, Inc. v. IAC*³³ and *LBC Air Cargo, Inc. v. CA*,³⁴ and 40% in *Bank of the Philippine Islands v. CA*³⁵ and *Philippine Bank of Commerce v. CA*.³⁶

In this case, a reduction of 50% of the actual damages is deemed equitable considering that the negligence of the tricycle driver was the proximate cause of the accident and that of petitioner was merely contributory. Moreover, under the circumstances, petitioner cannot be made liable for moral and exemplary damages for lack of basis. The award of attorney's fees is not warranted either.

WHEREFORE, the petition is **PARTLY GRANTED**. Petitioner Sabiniano Dumayag is hereby **ACQUITTED** of the crime of reckless imprudence resulting in homicide and damage to property. He is, however, civilly liable and, accordingly, **ORDERED** to pay each of the surviving heirs of Orlando Alfanta, Grace Israel and Julius Amante the following:

- 1] ₱25,000.00 as civil indemnity; and
- 2] ₱15,000.00 for funeral expenses.

The award of damages to Beethoven Bernabe, the owner of the tricycle, is **DELETED**.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

³² 7 Phil. 359 (1907).

³³ 232 Phil. 327 (1987).

³⁴ 311 Phil. 715 (1995).

³⁵ G.R. No. 102383, November 26, 1992, 216 SCRA 51.

³⁶ 336 Phil. 667 (1997).

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
 Associate Justice
 Acting Chairperson

Roberto A. Abad
ROBERTO A. ABAD
 Associate Justice

Marvic Mario Victor F. Leonen
MARVIC MARIO VICTOR F. LEONEN
 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.

Diosdado M. Peralta
DIOSDADO M. PERALTA
 Associate Justice
 Acting Chairperson, Third Division

CERTIFICATION

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

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
 Chief Justice