



Republic of the Philippines
Supreme Court
Manila

EN BANC

REPUBLIC OF THE
PHILIPPINES,

Petitioner,

G.R. No. 184621

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, JJ.

- versus -

MARIA FE ESPINOSA
CANTOR,

Respondent.

Promulgated:

DECEMBER 10, 2013

X-----X

DECISION

BRION, J.:

The petition for review on *certiorari*¹ before us assails the decision² dated August 27, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 01558-MIN which affirmed the order³ dated December 15, 2006 of the Regional Trial Court (RTC), Branch 25, Koronadal City, South Cotabato, in SP Proc. Case No. 313-25, declaring Jerry F. Cantor, respondent Maria Fe

¹ Under Rule 45 of the Rules of Court; *rollo*, pp. 9-31.

² Id. at 33-41.

³ Id. at 42-47.

Espinosa Cantor's husband, presumptively dead under Article 41 of the Family Code.

The Factual Antecedents

The respondent and Jerry were married on September 20, 1997. They lived together as husband and wife in their conjugal dwelling in Agan Homes, Koronadal City, South Cotabato. Sometime in January 1998, the couple had a violent quarrel brought about by: (1) the respondent's inability to reach "sexual climax" whenever she and Jerry would have intimate moments; and (2) Jerry's expression of animosity toward the respondent's father.

After their quarrel, Jerry left their conjugal dwelling and this was the last time that the respondent ever saw him. Since then, she had not seen, communicated nor heard anything from Jerry or about his whereabouts.

On May 21, 2002, or more than four (4) years from the time of Jerry's disappearance, the respondent filed before the RTC a petition⁴ for her husband's declaration of presumptive death, docketed as SP Proc. Case No. 313-25. She claimed that she had a well-founded belief that Jerry was already dead. She alleged that she had inquired from her mother-in-law, her brothers-in-law, her sisters-in-law, as well as her neighbors and friends, but to no avail. In the hopes of finding Jerry, she also allegedly made it a point to check the patients' directory whenever she went to a hospital. All these earnest efforts, the respondent claimed, proved futile, prompting her to file the petition in court.

The Ruling of the RTC

After due proceedings, the RTC issued an order granting the respondent's petition and declaring Jerry presumptively dead. It concluded that the respondent had a well-founded belief that her husband was already dead since more than four (4) years had passed without the former receiving any news about the latter or his whereabouts. The dispositive portion of the order dated December 15, 2006 reads:

WHEREFORE, the Court hereby declares, as it hereby declared that respondent Jerry F. Cantor is presumptively dead pursuant to Article 41 of the Family Code of the Philippines without prejudice to the effect of the reappearance of the absent spouse Jerry F. Cantor.⁵

⁴ Id. at 48.

⁵ Id. at 47.

The Ruling of the CA

The case reached the CA through a petition for *certiorari*⁶ filed by the petitioner, Republic of the Philippines, through the Office of the Solicitor General (OSG). In its August 27, 2008 decision, the CA dismissed the petitioner's petition, finding no grave abuse of discretion on the RTC's part, and, accordingly, fully affirmed the latter's order, thus:

WHEREFORE, premises foregoing (sic), the instant petition is hereby DISMISSED and the assailed Order dated December 15, 2006 declaring Jerry F. Cantor presumptively dead is hereby AFFIRMED *in toto*.⁷

The petitioner brought the matter *via* a Rule 45 petition before this Court.

The Petition

The petitioner contends that *certiorari* lies to challenge the decisions, judgments or final orders of trial courts in petitions for declaration of presumptive death of an absent spouse under Rule 41 of the Family Code. It maintains that although judgments of trial courts in summary judicial proceedings, including presumptive death cases, are deemed immediately final and executory (hence, not appealable under Article 247 of the Family Code), this rule does not mean that they are not subject to review on *certiorari*.

The petitioner also posits that the respondent did not have a well-founded belief to justify the declaration of her husband's presumptive death. It claims that the respondent failed to conduct the requisite diligent search for her missing husband. Likewise, the petitioner invites this Court's attention to the attendant circumstances surrounding the case, particularly, the degree of search conducted and the respondent's resultant failure to meet the strict standard under Article 41 of the Family Code.

⁶ Under Rule 65 of the Rules of Court.

⁷ *Rollo*, p. 40.

The Issues

The petition poses to us the following issues:

(1) Whether *certiorari* lies to challenge the decisions, judgments or final orders of trial courts in petitions for declaration of presumptive death of an absent spouse under Article 41 of the Family Code; and

(2) Whether the respondent had a well-founded belief that Jerry is already dead.

The Court's Ruling

We grant the petition.

a. On the Issue of the Propriety of Certiorari as a Remedy

Court's Judgment in the Judicial Proceedings for Declaration of Presumptive Death Is Final and Executory, Hence, Unappealable

The Family Code was explicit that the court's judgment in summary proceedings, such as the declaration of presumptive death of an absent spouse under Article 41 of the Family Code, shall be immediately final and executory.

Article 41, in relation to Article 247, of the Family Code provides:

Art. 41. A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

For the purpose of contracting the subsequent marriage under the preceding paragraph the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse.

Art. 247. The judgment of the court shall be immediately final and executory. [underscores ours]

With the judgment being final, it necessarily follows that it is no longer subject to an appeal, the dispositions and conclusions therein having become immutable and unalterable not only as against the parties but even as against the courts.⁸ Modification of the court's ruling, no matter how erroneous is no longer permissible. The final and executory nature of this summary proceeding thus prohibits the resort to appeal. As explained in *Republic of the Phils. v. Bermudez-Lorino*,⁹ the right to appeal is not granted to parties because of the express mandate of Article 247 of the Family Code, to wit:

In Summary Judicial Proceedings under the Family Code, there is no reglementary period within which to perfect an appeal, precisely because judgments rendered thereunder, by express provision of [Article] 247, Family Code, supra, are “immediately final and executory.” It was erroneous, therefore, on the part of the RTC to give due course to the Republic's appeal and order the transmittal of the entire records of the case to the Court of Appeals.

An appellate court acquires no jurisdiction to review a judgment which, by express provision of law, is immediately final and executory. As we have said in *Veloria vs. Comelec*, “the right to appeal is not a natural right nor is it a part of due process, for it is merely a statutory privilege.” **Since, by express mandate of Article 247 of the Family Code, all judgments rendered in summary judicial proceedings in Family Law are “immediately final and executory,” the right to appeal was not granted to any of the parties therein.** The Republic of the Philippines, as oppositor in the petition for declaration of presumptive death, should not be treated differently. It had no right to appeal the RTC decision of November 7, 2001. [emphases ours; italics supplied]

***Certiorari Lies to Challenge the
Decisions, Judgments or Final
Orders of Trial Courts in a Summary
Proceeding for the Declaration of
Presumptive Death Under the
Family Code***

A losing party in this proceeding, however, is not entirely left without a remedy. While jurisprudence tells us that no appeal can be made from the

⁸ *Philippine National Bank v. Spouses Bernard and Cresencia Marañon*, G.R. No. 189316, July 1, 2013.

⁹ 489 Phil. 761, 767 (2005).

trial court's judgment, an aggrieved party may, nevertheless, file a petition for *certiorari* under Rule 65 of the Rules of Court to question any abuse of discretion amounting to lack or excess of jurisdiction that transpired.

As held in *De los Santos v. Rodriguez, et al.*,¹⁰ the fact that a decision has become final does not automatically negate the original action of the CA to issue *certiorari*, prohibition and mandamus in connection with orders or processes issued by the trial court. *Certiorari* may be availed of where a court has acted without or in excess of jurisdiction or with grave abuse of discretion, and where the ordinary remedy of appeal is not available. Such a procedure finds support in the case of *Republic v. Tango*,¹¹ wherein we held that:

This case presents an opportunity for us to settle the rule on appeal of judgments rendered in summary proceedings under the Family Code and accordingly, refine our previous decisions thereon.

Article 238 of the Family Code, under Title XI: SUMMARY JUDICIAL PROCEEDINGS IN THE FAMILY LAW, establishes the rules that govern summary court proceedings in the Family Code:

“ART. 238. Until modified by the Supreme Court, the procedural rules in this Title shall apply in all cases provided for in this Code requiring summary court proceedings. Such cases shall be decided in an expeditious manner without regard to technical rules.”

In turn, Article 253 of the Family Code specifies the cases covered by the rules in chapters two and three of the same title. It states:

“ART. 253. The foregoing rules in Chapters 2 and 3 hereof shall likewise govern **summary proceedings** filed under Articles 41, 51, 69, 73, 96, 124 and 217, insofar as they are applicable.” (Emphasis supplied.)

In plain text, Article 247 in Chapter 2 of the same title reads:

“ART. 247. The judgment of the court shall be immediately final and executory.”

By express provision of law, the judgment of the court in a summary proceeding shall be immediately final and executory. As a matter of course, it follows that no appeal can be had of the trial court's judgment in a summary proceeding for the declaration of presumptive death of an absent spouse under Article 41 of the Family Code. **It goes without saying, however, that an aggrieved party may file a petition**

¹⁰ 130 Phil. 459, 464 (1968).

¹¹ G.R. No. 161062, July 31, 2009, 594 SCRA 560, 566-567.

for certiorari to question abuse of discretion amounting to lack of jurisdiction. Such petition should be filed in the Court of Appeals in accordance with the Doctrine of Hierarchy of Courts. To be sure, even if the Court's original jurisdiction to issue a writ of certiorari is concurrent with the RTCs and the Court of Appeals in certain cases, such concurrence does not sanction an unrestricted freedom of choice of court forum. [emphasis ours]

Viewed in this light, we find that the petitioner's resort to *certiorari* under Rule 65 of the Rules of Court to question the RTC's order declaring Jerry presumptively dead was proper.

b. On the Issue of the Existence of Well-Founded Belief

***The Essential Requisites for the
Declaration of Presumptive Death
Under Article 41 of the Family Code***

Before a judicial declaration of presumptive death can be obtained, it must be shown that the prior spouse had been absent for four consecutive years and the present spouse had a well-founded belief that the prior spouse was already dead. Under Article 41 of the Family Code, there are four (4) essential requisites for the declaration of presumptive death:

1. That the absent spouse has been missing for four consecutive years, or two consecutive years if the disappearance occurred where there is danger of death under the circumstances laid down in Article 391, Civil Code;
2. That the present spouse wishes to remarry;
3. **That the present spouse has a well-founded belief that the absentee is dead;** and
4. That the present spouse files a summary proceeding for the declaration of presumptive death of the absentee.¹²

***The Present Spouse Has the Burden
of Proof to Show that All the
Requisites Under Article 41 of the
Family Code Are Present***

¹² *Republic v. Nolasco*, G.R. No. 94053, March 17, 1993, 220 SCRA 20, 25-26; emphasis ours.

The burden of proof rests on the present spouse to show that all the requisites under Article 41 of the Family Code are present. Since it is the present spouse who, for purposes of declaration of presumptive death, substantially asserts the affirmative of the issue, it stands to reason that the burden of proof lies with him/her. He who alleges a fact has the burden of proving it and mere allegation is not evidence.¹³

***Declaration of Presumptive Death
Under Article 41 of the Family Code
Imposes a Stricter Standard***

Notably, Article 41 of the Family Code, compared to the old provision of the Civil Code which it superseded, imposes a **stricter standard**. It requires a “*well-founded belief*” that the absentee is *already dead* before a petition for declaration of presumptive death can be granted. We have had occasion to make the same observation in *Republic v. Nolasco*,¹⁴ where we noted the crucial differences between Article 41 of the Family Code and Article 83 of the Civil Code, to wit:

Under Article 41, the time required for the presumption to arise has been shortened to four (4) years; however, there is need for a judicial declaration of presumptive death to enable the spouse present to remarry. Also, Article 41 of the Family Code imposes a **stricter standard** than the Civil Code: Article 83 of the Civil Code merely requires either that there be *no news that such absentee is still alive*; or the absentee is *generally considered to be dead and believed to be so by the spouse present*, or is *presumed dead* under Articles 390 and 391 of the Civil Code. **The Family Code, upon the other hand, prescribes as “*well founded belief*” that the absentee is *already dead* before a petition for declaration of presumptive death can be granted.**

Thus, mere absence of the spouse (even for such period required by the law), lack of any news that such absentee is still alive, failure to communicate or general presumption of absence under the Civil Code would not suffice. This conclusion proceeds from the premise that Article 41 of the Family Code places upon the present spouse the burden of proving the additional and more stringent requirement of “*well-founded belief*” which can only be discharged upon a showing of proper and honest-to-goodness inquiries and efforts to ascertain not only the absent spouse’s whereabouts but, more importantly, that the absent spouse is still alive or is already dead.¹⁵

¹³ *Guidangen v. Wooden*, G.R. No. 174445, February 15, 2012, 666 SCRA 119, 131.

¹⁴ *Supra* note 12, at 25; emphases ours, italics supplied, citations omitted.

¹⁵ *Republic of the Philippines v. Court of Appeals (Tenth Div.)*, 513 Phil. 391, 397-398 (2005).

The Requirement of Well-Founded Belief

The law did not define what is meant by “well-founded belief.” It depends upon the circumstances of each particular case. Its determination, so to speak, remains on a case-to-case basis. To be able to comply with this requirement, the present spouse must prove that his/her belief was the result of **diligent and reasonable efforts and inquiries** to locate the absent spouse and that based on these efforts and inquiries, he/she believes that under the circumstances, the absent spouse is already dead. **It requires exertion of active effort (not a mere passive one).**

To illustrate this degree of “diligent and reasonable search” required by the law, an analysis of the following relevant cases is warranted:

i. Republic of the Philippines v. Court of Appeals (Tenth Div.)¹⁶

In *Republic of the Philippines v. Court of Appeals (Tenth Div.)*,¹⁷ the Court ruled that the present spouse failed to prove that he had a well-founded belief that his absent spouse was already dead before he filed his petition. His efforts to locate his absent wife allegedly consisted of the following:

- (1) He went to his in-laws’ house to look for her;
- (2) He sought the barangay captain’s aid to locate her;
- (3) He went to her friends’ houses to find her and inquired about her whereabouts among his friends;
- (4) He went to Manila and worked as a part-time taxi driver to look for her in malls during his free time;
- (5) He went back to Catbalogan and again looked for her; and
- (6) He reported her disappearance to the local police station and to the NBI.

¹⁶ Ibid.
¹⁷ Ibid.

Despite these alleged “earnest efforts,” the Court still ruled against the present spouse. The Court found that he failed to present the persons from whom he allegedly made inquiries and only reported his wife’s absence after the OSG filed its notice to dismiss his petition in the RTC.

The Court also provided the following criteria for determining the existence of a “well-founded belief” under Article 41 of the Family Code:

The belief of the present spouse **must be the result of proper and honest to goodness inquiries and efforts to ascertain the whereabouts of the absent spouse and whether the absent spouse is still alive or is already dead.** Whether or not the spouse present acted on a well-founded belief of death of the absent spouse depends upon the inquiries to be drawn from a great many circumstances occurring before and after the disappearance of the absent spouse and **the nature and extent of the inquiries made by [the] present spouse.**¹⁸

*ii. Republic v. Granada*¹⁹

Similarly in *Granada*, the Court ruled that the absent spouse failed to prove her “well-founded belief” that her absent spouse was already dead prior to her filing of the petition. In this case, the present spouse alleged that her brother had made inquiries from their relatives regarding the absent spouse’s whereabouts. The present spouse did not report to the police nor seek the aid of the mass media. Applying the standards in *Republic of the Philippines v. Court of Appeals (Tenth Div.)*,²⁰ the Court ruled against the present spouse, as follows:

Applying the foregoing standards to the present case, petitioner points out that respondent Yolanda **did not initiate a diligent search to locate her absent husband. While her brother Diosdado Cadacio testified to having inquired about the whereabouts of Cyrus from the latter’s relatives, these relatives were not presented to corroborate Diosdado’s testimony.** In short, respondent was allegedly not diligent in her search for her husband. Petitioner argues that if she were, she would have sought information from the Taiwanese Consular Office or assistance from other government agencies in Taiwan or the Philippines. She could have also utilized mass media for this end, but she did not. Worse, she failed to explain these omissions.

¹⁸ Id. at 397-398; emphases ours.

¹⁹ G.R. No. 187512, June 13, 2012, 672 SCRA 432, 444-445; emphasis ours.

²⁰ *Supra* note 15.

iii. Republic v. Nolasco²¹

In *Nolasco*, the present spouse filed a petition for declaration of presumptive death of his wife, who had been missing for more than four years. He testified that his efforts to find her consisted of:

- (1) Searching for her whenever his ship docked in England;
- (2) Sending her letters which were all returned to him; and
- (3) Inquiring from their friends regarding her whereabouts, which all proved fruitless.

The Court ruled that the present spouse's investigations were too sketchy to form a basis that his wife was already dead and ruled that the pieces of evidence only proved that his wife had chosen not to communicate with their common acquaintances, and not that she was dead.

iv. The present case

In the case at bar, the respondent's "well-founded belief" was anchored on her alleged "earnest efforts" to locate Jerry, which consisted of the following:

- (1) She made inquiries about Jerry's whereabouts from her in-laws, neighbors and friends; and
- (2) Whenever she went to a hospital, she saw to it that she looked through the patients' directory, hoping to find Jerry.

These efforts, however, fell short of the "stringent standard" and degree of diligence required by jurisprudence for the following reasons:

First, the respondent did not actively look for her missing husband. It can be inferred from the records that her hospital visits and her consequent checking of the patients' directory therein were unintentional. She did not purposely undertake a diligent search for her husband as her hospital visits

²¹ *Supra* note 12.

were not planned nor primarily directed to look for him. This Court thus considers these attempts insufficient to engender a belief that her husband is dead.

Second, she did not report Jerry's absence to the police nor did she seek the aid of the authorities to look for him. While a finding of well-founded belief varies with the nature of the situation in which the present spouse is placed, under present conditions, we find it proper and prudent for a present spouse, whose spouse had been missing, to seek the aid of the authorities or, at the very least, report his/her absence to the police.

Third, she did not present as witnesses Jerry's relatives or their neighbors and friends, who can corroborate her efforts to locate Jerry. Worse, these persons, from whom she allegedly made inquiries, were not even named. As held in *Nolasco*, the present spouse's bare assertion that he inquired from his friends about his absent spouse's whereabouts is insufficient as the names of the friends from whom he made inquiries were not identified in the testimony nor presented as witnesses.

Lastly, there was no other corroborative evidence to support the respondent's claim that she conducted a diligent search. Neither was there supporting evidence proving that she had a well-founded belief other than her bare claims that she inquired from her friends and in-laws about her husband's whereabouts.

In sum, the Court is of the view that the respondent merely engaged in a "passive search" where she relied on uncorroborated inquiries from her in-laws, neighbors and friends. **She failed to conduct a diligent search** because her alleged efforts are insufficient to form a well-founded belief that her husband was already dead. As held in *Republic of the Philippines v. Court of Appeals (Tenth Div.)*,²² "[w]hether or not the spouse present acted on a well-founded belief of death of the absent spouse depends upon the inquiries to be drawn from a great many circumstances occurring before and after the disappearance of the absent spouse and the nature and extent of the inquiries made by [the] present spouse."

***Strict Standard Approach Is
Consistent with the State's Policy to
Protect and Strengthen Marriage***

²² *Supra* note 15, at 398.

In the above-cited cases, the Court, fully aware of the possible collusion of spouses in nullifying their marriage, has consistently applied the “strict standard” approach. This is to ensure that a petition for declaration of presumptive death under Article 41 of the Family Code is not used as a tool to conveniently circumvent the laws. Courts should never allow procedural shortcuts and should ensure that the stricter standard required by the Family Code is met. In *Republic of the Philippines v. Court of Appeals (Tenth Div.)*,²³ we emphasized that:

In view of the summary nature of proceedings under Article 41 of the Family Code for the declaration of presumptive death of one’s spouse, **the degree of due diligence set by this Honorable Court in the above-mentioned cases in locating the whereabouts of a missing spouse must be strictly complied with.** There have been times when Article 41 of the Family Code had been resorted to by parties wishing to remarry knowing fully well that their alleged missing spouses are alive and well. It is even possible that those who cannot have their marriages xxx declared *null* and *void* under Article 36 of the Family Code resort to Article 41 of the Family Code for relief because of the xxx summary nature of its proceedings.

The application of this stricter standard becomes even more imperative if we consider the State’s policy to protect and strengthen the institution of marriage.²⁴ Since marriage serves as the family’s foundation²⁵ and since it is the state’s policy to protect and strengthen the family as a basic social institution,²⁶ marriage should not be permitted to be dissolved at the whim of the parties. In interpreting and applying Article 41, this is the underlying rationale – to uphold the sanctity of marriage. *Arroyo, Jr. v. Court of Appeals*²⁷ reflected this sentiment when we stressed:

[The] protection of the basic social institutions of marriage and the family in the preservation of which the State has the strongest interest; the public policy here involved is of the most fundamental kind. In Article II, Section 12 of the Constitution there is set forth the following basic state policy:

The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution.

***Strict Standard Prescribed Under
Article 41 of the Family Code Is for
the Present Spouse’s Benefit***

²³ Id. at 396; emphasis ours, italics supplied.

²⁴ Ibid.

²⁵ Ibid.

²⁶ CONSTITUTION, Article 2, Section 12.

²⁷ G.R. Nos. 96602 and 96715, November 19, 1991, 203 SCRA 750, 761.

The requisite judicial declaration of presumptive death of the absent spouse (and consequently, the application of a stringent standard for its issuance) is also for the present spouse's benefit. It is intended to protect him/her from a criminal prosecution of bigamy under Article 349 of the Revised Penal Code which might come into play if he/she would prematurely remarry *sans* the court's declaration.

Upon the issuance of the decision declaring his/her absent spouse presumptively dead, the present spouse's good faith in contracting a second marriage is effectively established. The decision of the competent court constitutes sufficient proof of his/her good faith and his/her criminal intent in case of remarriage is effectively negated.²⁸ Thus, for purposes of remarriage, it is necessary to strictly comply with the stringent standard and have the absent spouse judicially declared presumptively dead.

Final Word

As a final word, it has not escaped this Court's attention that the strict standard required in petitions for declaration of presumptive death has not been fully observed by the lower courts. We need only to cite the instances when this Court, on review, has consistently ruled on the sanctity of marriage and reiterated that anything less than the use of the strict standard necessitates a denial. To rectify this situation, lower courts are now expressly put on notice of the strict standard this Court requires in cases under Article 41 of the Family Code.

WHEREFORE, in view of the foregoing, the assailed decision dated August 27, 2008 of the Court of Appeals, which affirmed the order dated December 15, 2006 of the Regional Trial Court, Branch 25, Koronadal City, South Cotabato, declaring Jerry F. Cantor presumptively dead is hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.


ARTURO D. BRION
Associate Justice

²⁸ *Manuel v. People*, 512 Phil. 818, 836 (2005).

WE CONCUR:



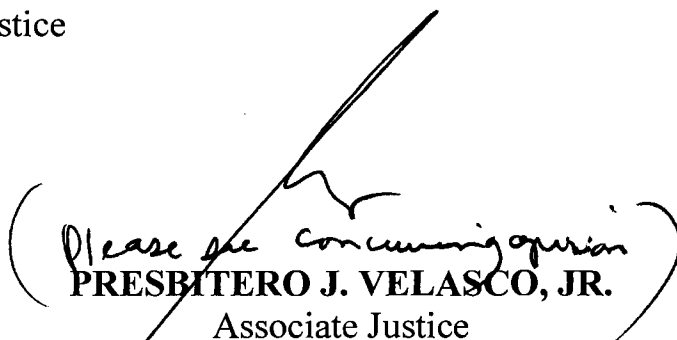
MARIA LOURDES P. A. SERENO

Chief Justice



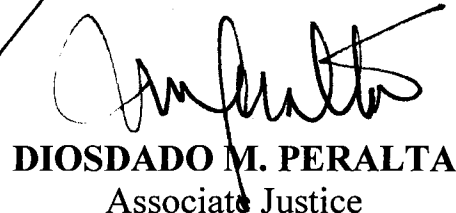
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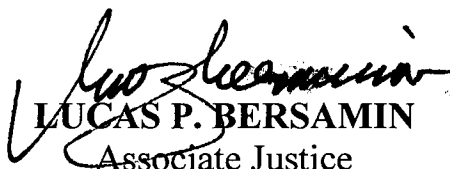
Associate Justice

Please see concurring opinion

PRESBITERO J. VELASCO, JR.
 Associate Justice

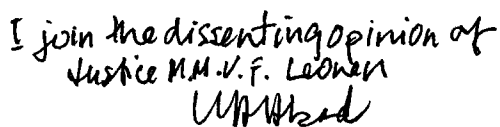
Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO

Associate Justice


DIOSDADO M. PERALTA
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


MARIANO C. DEL CASTILLO
 Associate Justice

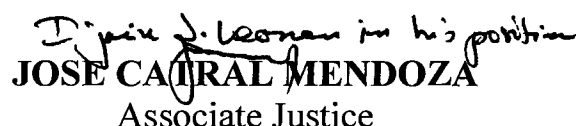
I join the dissenting opinion of Justice M.M.V.F. Leonen


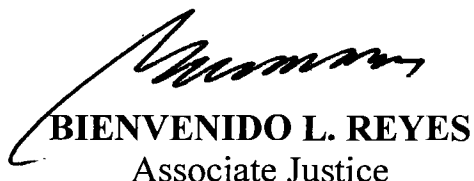
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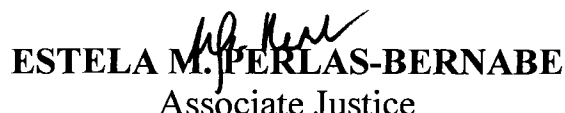
Associate Justice


MARTIN S. VILLARAMA, JR.
 Associate Justice


JOSE PORTUGAL PEREZ
 Associate Justice

Dipin J. Leonan in his position

JOSE CAIRAL MENDOZA
 Associate Justice


BIENVENIDO L. REYES
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice

See dissenting opinion

MARVIC MARIO VICTOR F. LEONEN
 Associate Justice

C E R T I F I C A T I O N

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.



MARIA LOURDES P. A. SERENO

Chief Justice