



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 190340

Present:

- versus -

CARPIO, *Chairperson,*  
BRION,  
DEL CASTILLO,  
PEREZ, *and*  
PERLAS-BERNABE, *JJ.*

ROGELIO RAMOS and  
MARISSA INTERO RAMOS,  
*Accused-Appellants.*

Promulgated:

JUL 24 2013

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DECISION

DEL CASTILLO, *J.:*

In convincing this Court to overturn their conviction for murder, appellants in this case invoke self-defense, denial and alibi.

On appeal is the September 9, 2009 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-GR CR-H.C. No. 02785, which affirmed with modification the February 28, 2007 Decision<sup>2</sup> of the Regional Trial Court (RTC) of Agoo, La Union, Branch 32 in Criminal Case No. A-5295. The RTC found the appellants Rogelio Ramos (Rogelio) and Marissa Intero Ramos (Marissa) guilty beyond reasonable doubt of the crime of murder, sentenced them to *reclusion perpetua*, and ordered them to pay the heirs of the victim Ronald A. Abacco (Abacco) civil indemnity and moral damages in the amounts of ₱75,000.00 and ₱50,000.00, respectively. *Madan*

<sup>1</sup> CA *rollo*, pp. 148-162; penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Presiding Justice Conrado M. Vasquez, Jr. and Associate Justice Jose C. Reyes, Jr.

<sup>2</sup> Records, pp. 187-206; penned by Judge Clifton U. Ganay.

***Factual Antecedents***

On June 28, 2006, appellants were charged with the crime of murder under Article 248 of the Revised Penal Code (RPC). The Information<sup>3</sup> reads thus:

The undersigned Prosecutor accuses ROGELIO RAMOS & MARISSA INTERO-RAMOS of the crime of MURDER with the Aggravating Qualifying circumstances of treachery and abuse of superior strength committed as follows:

That on or about April 11, 2006 at about 7:00 pm or immediately thereafter, at the Municipality of Sto. Tomas, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the accused, with intent to kill, conspiring, confederating and helping one another by using their superior strength to subdue the victim RONALD A. ABACCO, did then and there willfully, unlawfully and feloniously kill [the] said victim by attacking him with a bladed weapon, pulling him to the ground to subdue him and while there on the ground and defenseless, accused ROGELIO RAMOS hack[ed] him several times while accused MARISSA INTERO-RAMOS shout[ed], “kill him, kill him” thus causing massive injuries to the body of the victim that caused his death to the damage and prejudice of his heirs.

The crime is attended by the qualifying circumstances of treachery by attacking a defenseless victim and with abuse of superior strength.

CONTRARY TO LAW.<sup>4</sup>

Upon arraignment on June 29, 2006, both appellants pleaded not guilty to the crime charged.<sup>5</sup> After pre-trial, trial on the merits followed.

***Version of the Prosecution***

Eight witnesses testified for the prosecution: Dr. Arsenio Parazo (Dr. Parazo), PO3 Aris De Guzman, Onofre Tandoc (Tandoc), Anthony Ramos (Anthony), Ryan Roquero (Ryan), Gina Ramos (Gina), Adrian Ruther Abacco, and PO2 Eduardo Laroya. Their testimonies are summarized as follows.

In the evening of April 11, 2006, Rogelio threw stones at the house of his brother-in-law, Ramon Ramos, where Tandoc and his daughter, as well as Abacco, were resting. After Tandoc warned Rogelio to stop throwing stones as he might hit his daughter, Rogelio retreated to his house. After a while, Marissa went out and shouted at them. Tandoc then suggested to Abacco that they leave the place to avert further trouble. However, instead of leaving, Abacco, then unarmed, approached the appellants' house and asked Rogelio to come out so they could

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<sup>3</sup> Id. at 52-53.

<sup>4</sup> Id. at 52.

<sup>5</sup> Id. at 60.

talk. Rogelio and Marissa then opened their gate. As soon as the gate was opened, Rogelio hacked Abacco twice with a *samurai* sword. When Abacco fell to the ground, the appellants dragged him into their yard and banged his head on the wall of their house. Abacco begged for his life crying out, “*Tama na bayaw, tama na, hindi ako lalaban.*”<sup>6</sup> Despite this, Marissa hacked Abacco on his back with a bolo while he was still on the ground. She then told Rogelio, “*Sige, patayin mo na yan!*”<sup>7</sup> Notwithstanding the plea for mercy, Rogelio still hacked Abacco several times until the latter died.

Dr. Parazo who conducted the autopsy, testified that Abacco died of hypovolemic shock or massive blood loss secondary to multiple hacked wounds in different parts of the body, such as the head, neck, shoulders, forearms, and back.<sup>8</sup> He further testified that the injuries on Abacco’s head and on his right hand might have been caused by a sharp-edged instrument like a *samurai* sword, bolo, or knife. The wounds were so deep that some of Abacco’s bones such as the scapula (shoulder blades) and the humerus (upper arm bone) were exposed. The wound in the lumbar area (lower back) almost transected the spinal cord.<sup>9</sup> Abacco’s body bore 12 wounds.

### ***Version of the Defense***

The defense presented six witnesses: Basilio Tavora (Tavora), Elpidio Barroga, William Bumanlag (Bumanlag), Dr. Emmanuel Soriano (Dr. Soriano), and Marissa and Rogelio. Rogelio invoked self-defense while Marissa interposed denial and alibi. Their testimonies are summarized as follows.

At about 7:00 p.m. of April 11, 2006, Rogelio was in his house with his live-in partner Marissa. While Rogelio was taking a bath near their deep well, Abacco threw stones at their house hitting the roof five times. Abacco then shouted at Rogelio and challenged him to come out so they could talk. Rogelio then went inside the house and told Marissa to call the *barangay* officials. At about 8:00 p.m., Marissa went out to seek the aid of the *barangay* officials. Abacco was still outside shouting and challenging Rogelio. When Abacco stopped shouting, Rogelio went out of the house to look for Marissa. As he reached the gate and was about to go out of the compound, he was suddenly hacked on his right arm by Abacco with a bolo. He stepped back since Abacco again swung at him with his bolo. Rogelio went inside his house to get his *samurai* sword so that he could defend himself. Abacco resumed his attack as soon as Rogelio came out. Parrying the blow of Abacco, Rogelio was able to get a

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<sup>6</sup> TSN, September 11, 2006, p. 16.

<sup>7</sup> TSN, August 3, 2006, p. 22.

<sup>8</sup> TSN, July 10, 2006, pp. 17-21.

<sup>9</sup> Id. at p. 18.

hold of Abacco's hand as well as the bolo. He then hacked Abacco with the *samurai* sword several times until he was dead.

Abacco was already lifeless when *Kagawad* Barroga arrived. Rogelio surrendered to Barroga and told him that he killed the deceased out of self-defense. Later on, Marissa arrived with the *barangay* officials.

Marissa corroborated the testimony of Rogelio. To bolster her defense of denial and alibi, Marissa testified that after Abacco repeatedly challenged Rogelio, she went to the house of Liwayway del Prado to ask someone to accompany her to the house of a *barangay kagawad*.<sup>10</sup> Bumanlag accompanied her to the house of *Kagawad* Rafanan but no one was there. Marissa and Bumanlag then proceeded to the house of *Kagawad* Tavora arriving there at about 9:00 p.m. When Marissa told Tavora that Abacco was going berserk,<sup>11</sup> Tavora refused to go with them saying that the area is outside of his sector and instead advised them to go to the municipal hall. However, they no longer got to the municipal hall because when they passed by appellants' house, they learned that Abacco was already dead.

### ***Ruling of the Regional Trial Court***

After hearing all the testimonies presented by both sides and receiving their respective evidence, the RTC on February 28, 2007 convicted Rogelio and Marissa of the crime of murder. The dispositive part of the Decision reads:

**WHEREFORE**, upon the foregoing, judgment is hereby rendered adjudging both accused Rogelio Ramos and Marissa Intero-Ramos **guilty beyond reasonable doubt of the crime of Murder**. They are sentenced to suffer the penalty of Reclusion Perpetua.

They are also ordered to pay civil indemnity to the heirs of Ronald Abacco of STO. TOMAS, La Union in the amount of Seventy-Five Thousand pesos\* and moral damages in the amount of Fifty Thousand pesos for a total of One Hundred Twenty Five Thousand pesos.

SO ORDERED.<sup>12</sup>

The RTC rejected the claim that Rogelio only acted in lawful self-defense. It held that the elements of self-defense, specifically unlawful aggression on the part of Abacco and reasonable necessity of the means employed to repel the aggression, were not established.

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<sup>10</sup> TSN, October 23, 2006, pp. 7-8.

<sup>11</sup> Id. at 10.

<sup>12</sup> Records, p. 206. Emphases and symbol in the original.

With respect to the element of unlawful aggression on Abacco's part, the RTC ratiocinated thus:

Assuming *arguendo* that Ronald Abacco was indeed armed when he confronted Rogelio Ramos at the latter's house, Rogelio became the unlawful aggressor from the time he was able to get hold of Abacco's hand and started hacking him. At that moment, the unlawful aggression made by Abacco, if ever there was any, ceased and evidently shifted to the accused Rogelio Ramos.<sup>13</sup>

Anent the element of reasonable necessity of the means employed to repel the aggression, the RTC held that the number of wounds sustained by the deceased reveals that the means employed by Rogelio was unreasonable. In addition, in comparison with Rogelio's injuries which the attending physician and the RTC found to be minor, the fatal wounds suffered by Abacco belie the claim of self-defense.

As to Marissa, the RTC held that her claim of denial and alibi cannot prevail over the positive testimonies of the prosecution witnesses positively identifying her to have participated in the commission of the crime.

### ***Ruling of the Court of Appeals***

On appeal, the CA affirmed with modification the Decision of the RTC. The dispositive portion of the CA's assailed September 9, 2009 Decision reads:

**WHEREFORE**, the instant appeal is **DENIED**. The decision appealed from is **AFFIRMED** with the modification that the appellants Rogelio Ramos and Marissa Ramos are ordered to pay, jointly and severally, additional ₱25,000.00 as exemplary damages, to the heirs of Ronald Abacco.

**IT IS SO ORDERED.**<sup>14</sup>

The CA held that the appellants failed to discharge the burden of evidence in proving that Rogelio killed Abacco in self-defense. Instead, what Rogelio did was an act of retaliation. With respect to Marissa, the said court ruled that her defense of denial and alibi cannot prosper as it was not physically impossible for her to have been at the scene of the crime at the time of its commission.

### ***Assignment of Errors***

Not satisfied, the appellants now appeal to this Court adopting the same issues they raised before the CA. They assert that the trial court gravely erred in:

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<sup>13</sup> Id. at 203.

<sup>14</sup> CA *rollo*, p. 161.

## I

X X X CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME OF MURDER, WHEN THEIR GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

## II

X X X GIVING WEIGHT AND CREDENCE TO THE HIGHLY INCREDULOUS TESTIMONIES OF THE PROSECUTION'S EYEWITNESSES, AND IN DISREGARDING THE CREDIBLE VERSION OF THE DEFENSE.

## III

X X X RULING THAT THE CRIME COMMITTED WAS MURDER DESPITE THE ABSENCE OF PROOF THAT THE AGGRAVATING CIRCUMSTANCE OF TREACHERY ATTENDED THE COMMISSION OF THE CRIME.<sup>15</sup>

### Our Ruling

The appeal has no merit.

*Rogelio's claim of self-defense is unavailing.*

Rogelio admits that he killed Abacco albeit in self-defense. "The rule consistently adhered to in this jurisdiction is that when the accused [admits] that he [is] the author of the death of the victim and his defense [is] anchored on self-defense, it becomes incumbent upon him to prove the justifying circumstance to the satisfaction of the court."<sup>16</sup> With this admission, the burden of evidence is shifted to the appellant to prove that all the essential elements of self-defense are present. He must show and prove by clear and convincing evidence that his act was justified. Otherwise his conviction must be upheld and he cannot be exonerated from criminal liability. On this score, the accused must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence.

To successfully invoke the justifying circumstance of self-defense, the following requisites must be present:

- (1) unlawful aggression;
- (2) reasonable necessity of the means employed to prevent or repel it;

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<sup>15</sup> Id. at 60-61.

<sup>16</sup> *People v. Mayingque*, G.R. No. 179709, July 6, 2010, 624 SCRA 123, 141.

(3) lack of sufficient provocation on the part of the person defending himself.<sup>17</sup>

Unlawful aggression is the indispensable element of self-defense, for if no unlawful aggression attributed to the victim is established, self-defense is unavailing as there is nothing to repel. The unlawful aggression of the victim must put the life and personal safety of the person defending himself in actual peril. A mere threatening or intimidating attitude does not constitute unlawful aggression.<sup>18</sup>

In this case, appellants claim that Abacco went to Rogelio's house and threw stones at it, shouted at Rogelio, and challenged him to come out. When Rogelio finally came out, Abacco suddenly hacked him with a bolo. And to defend himself, Rogelio went inside his house, armed himself with a *samurai* sword, and in parrying the blows of Abacco, hacked the latter to death. In essence, Rogelio claims that the unlawful aggression originated from Abacco.

On the other hand, the prosecution witnesses stated that Abacco was unarmed when he went to the house of Rogelio. They testified that Rogelio and Marissa were crouching behind a gumamela bush before Rogelio opened their gate. Thereupon, Rogelio dealt the first blow when he suddenly hacked Abacco with a *samurai* sword twice.<sup>19</sup>

Ineluctably, Abacco cannot be considered as the aggressor. For one, eyewitnesses attest that Abacco was unarmed when he went to appellants' house. Also, Abacco's act of going to their house and calling out Rogelio so they may talk can hardly be considered as unlawful aggression under the law. Even Abacco's injuries which proved to be multiple and fatal reveal that it was Rogelio and Marissa who were truly the aggressors. In contrast, the injuries sustained by Rogelio were minor requiring no special care or attention. Dr. Soriano, the physician who attended to Rogelio, even testified in court on the possibility that the wounds could have been self-inflicted.<sup>20</sup> This Court is thus convinced that Abacco was by no means the unlawful aggressor.

With regard to the second element of self-defense, the Court finds that the means employed by Rogelio is grossly disproportionate to Abacco's alleged unlawful aggression. Abacco was violently slain and practically butchered. He suffered multiple blows to the head, neck, arms, and back. The blade of the *samurai* sword not only sliced through his flesh but penetrated and even exposed his bones. In fact, one particular laceration almost transected his spinal cord. Suffice it to say that a plea of self-defense is belied by the "nature, number, and

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<sup>17</sup> REVISED PENAL CODE, Art. 11(1).

<sup>18</sup> *Calim v. Court of Appeals*, 404 Phil. 391, 401-402 (2001).

<sup>19</sup> TSN, August 3, 2006, p. 19.

<sup>20</sup> TSN, November 20, 2006, p. 10.

location of the wounds” inflicted on the victim “since the gravity of said wounds is indicative of a determined effort to kill and not just to defend.”<sup>21</sup> Here, the wounds sustained by Abacco clearly show Rogelio’s intent to kill him and not merely to prevent or repel an attack from him. Verily, the means employed by Rogelio were unreasonable and excessive, thus, his plea of self-defense is unacceptable.

*Marissa’s defense of denial and alibi must likewise fail.*

Marissa invokes the defense of denial and alibi. She claims that she was not present at the crime scene at the time of the killing since she was at the house of *Barangay Kagawad* Tavora to ask for aid in pacifying Abacco who was challenging Rogelio.

However, for the defense of alibi to prosper, “the accused must prove (a) that [she] was present at another place at the time of the perpetration of the crime, and (b) that it was physically impossible for [her] to be at the scene of the crime”<sup>22</sup> during its commission. “Physical impossibility refers to distance and the facility of access between the [crime scene] and the location of the accused when the crime was committed. [She] must demonstrate that [she] was so far away and could not have been physically present at the [crime scene] and its immediate vicinity when the crime was committed.”<sup>23</sup>

In the case at bench, Marissa failed to satisfy these requisites. During trial, it was shown that the distance between *Kagawad* Tavora’s house and the house of the appellants was only 400 meters. Surely, a distance of 400 meters is not what jurisprudence contemplates when it refers to physical impossibility of the accused to be present at the scene of the crime. We have previously held that two kilometers,<sup>24</sup> three kilometers,<sup>25</sup> and even five kilometers<sup>26</sup> were not too far as to preclude the possibility of the presence of the accused at the crime scene. The mere fact, therefore, that Marissa went to the house of *Kagawad* Tavora did not preclude her presence at their house at the time the crime happened.

Moreover, Marissa was positively identified by eyewitnesses to be present at the scene of the crime and to have participated in its commission. Time and again, this Court has consistently ruled that positive identification prevails over alibi since the latter can easily be fabricated and is inherently unreliable.<sup>27</sup>

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<sup>21</sup> *People v. Pateo*, G.R. No. 156786, June 3, 2004, 430 SCRA 609, 617.

<sup>22</sup> *People v. Mosquera*, 414 Phil. 740, 749 (2001).

<sup>23</sup> *People v. Trayco*, G.R. No. 171313, August 14, 2009, 596 SCRA 233, 253

<sup>24</sup> *People v. Lumantas*, 139 Phil. 20, 26-27 (1969).

<sup>25</sup> *People v. Binsol*, 100 Phil. 713, 731 (1957).

<sup>26</sup> *People v. Manabat*, 100 Phil. 603, 608 (1956).

<sup>27</sup> *People v. Dejillo*, G.R. No. 185005, December 10, 2012.

*Factual findings of the trial court involving the credibility of witnesses are accorded respect especially when affirmed by the CA.*

Appellants challenge the RTC's reliance on the testimonies of the prosecution witnesses claiming the same to be highly incredulous. They particularly question the credibility of prosecution witnesses, husband and wife Anthony and Gina, who they claim had testified against them for improper motives. They aver that since they previously filed a complaint against Anthony for cutting down their narra tree, the said spouses had every reason to falsely testify against them. By virtue of their previous altercation, the testimonies of the said witnesses should not be given weight as they are not considered credible witnesses.

The Court finds no reason to disturb the findings of the trial court. It is a well-settled rule that factual findings of the trial court involving the credibility of witnesses are accorded utmost respect since trial courts have first hand account on the witnesses' manner of testifying in court and their demeanor during trial.<sup>28</sup> The Court shall not supplant its own interpretation of the testimonies for that of the trial judge since he is in the best position to determine the issue of credibility. Moreover in the absence of misapprehension of facts or grave abuse of discretion, and especially when the findings of the judge have been affirmed by the CA as in this case, the findings of the trial court shall not be disturbed.<sup>29</sup> Besides, even assuming that Anthony and Gina were indeed impelled by improper motive, appellants failed to impeach Ryan, an eyewitness to the incident who positively identified them as the assailants. As observed by the CA:

While the appellants question the credibility of the prosecution witness Anthony Ramos, who allegedly had ill motive in testifying against them because appellant Marissa had filed charges against him for cutting the narra tree in front of their house, they failed to impute similar motive on the part of Ryan (Roquero) who also witnessed the incident. x x x<sup>30</sup>

*Treachery attended the killing of Abacco, hence, the crime committed is murder.*

This Court is likewise convinced that treachery was employed by the appellants in killing Abacco.

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<sup>28</sup> *People v. Duavis*, G.R. No. 190861, December 7, 2011, 661 SCRA 775, 783.

<sup>29</sup> *Josue v. People*, G.R. No. 199579, December 10, 2012.

<sup>30</sup> CA rollo, p. 158.

There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.<sup>31</sup> This is exactly the manner by which appellants committed the crime. As aptly depicted in the assailed CA Decision:

As the victim lay on the ground, appellant Rogelio repeatedly hacked the victim. Apart from the admission of appellant Rogelio, Anthony and Ryan, who happened to pass by, also witnessed this incident. Furthermore, Anthony and Ryan likewise saw appellant Marissa hack the victim at his back. Indisputably, the appellants attacked the victim with treachery because the latter, who had fallen to the ground and begging the appellants to stop, was in no position to offer any defense to ward off the attack nor provide a semblance of risk to life or limb of the attackers. x x x<sup>32</sup>

And as treachery qualifies the killing to murder,<sup>33</sup> the crime committed in this case is murder under Article 248 of the RPC.

### *Penalty and Award of Damages*

The penalty for murder is *reclusion perpetua* to death.<sup>34</sup> “There being no aggravating or mitigating circumstance, the RTC, as affirmed by the [CA] properly imposed [upon appellants] the penalty of *reclusion perpetua*, pursuant to Article 63, paragraph 2<sup>35</sup> of the [RPC].”<sup>36</sup>

“Anent the award of damages, when death occurs due to a crime, the following may be recovered: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney’s fees and expenses for litigation; and, (6) interest, in proper cases.”<sup>37</sup> Hence, the Court finds as proper the RTC’s awards to the heirs of Abacco, as affirmed by the CA, the amounts of ₱75,000.00 as civil indemnity and ₱50,000.00 as moral damages.<sup>38</sup> However, the ₱25,000.00 exemplary damages awarded by the CA must be increased to ₱30,000.00 in line with current

<sup>31</sup> REVISED PENAL CODE, Art. 14, par. 16(2).

<sup>32</sup> CA rollo, p. 159.

<sup>33</sup> *People v. Lacaden*, G.R. No. 187682, November 25, 2009, 605 SCRA 784, 799.

<sup>34</sup> *People v. Agacer*, G.R. No. 177751, January 7, 2013.

<sup>35</sup> ART. 63. *Rules for the application of indivisible penalties.* x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x

(2) When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

<sup>36</sup> *People v. Escleto*, G.R. No. 183706, April 25, 2012, 671 SCRA 149, 159-160.

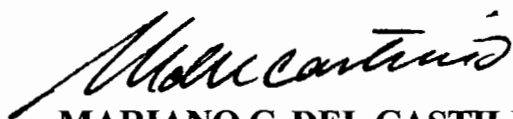
<sup>37</sup> *People v. Rarugal*, G.R. No. 188603, January 16, 2013.

<sup>38</sup> *People v. Escleto*, supra note 36 at 160.

jurisprudence.<sup>39</sup> Also, as the prosecution was able to submit in evidence receipts representing the expenses incurred in connection with Abacco's burial,<sup>40</sup> actual damages in the amount of ₱40,000.00 must likewise be awarded. "In addition and in conformity with current policy [the Court] also impose[s] on all the monetary awards for damages interest at the legal rate of 6% *per annum* from the date of finality of this Decision until fully paid."<sup>41</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The September 9, 2009 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02785 is **AFFIRMED with modifications**. Appellants Rogelio Ramos and Marissa Intero Ramos are further ordered to pay the heirs of Ronald A. Abacco (1) exemplary damages in an increased amount of ₱30,000.00; (2) actual damages in the amount of ₱40,000.00; and, (3) interest at the legal rate of 6% *per annum* on all the monetary awards for damages from date of finality of this Decision until fully paid.

**SO ORDERED.**



**MARIANO C. DEL CASTILLO**

*Associate Justice*

WE CONCUR:



**ANTONIO T. CARPIO**

*Associate Justice*

*Chairperson*



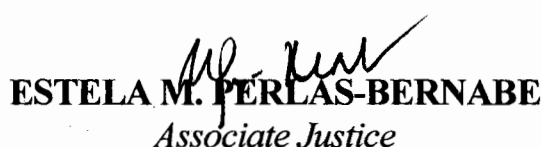
**ARTURO D. BRION**

*Associate Justice*



**JOSE PORTUGAL PEREZ**

*Associate Justice*



**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

<sup>39</sup> *People v. Paling*, G.R. No. 185390, March 16, 2011, 645 SCRA 627, 644.

<sup>40</sup> Exhibits "M" and "N," Folder of Exhibits, pp. 31-32; see also TSN dated October 2, 2006, pp. 231-232.

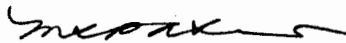
<sup>41</sup> *People v. Rarugal*, *supra* note 37.

**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.

**ANTONIO T. CARPIO***Associate Justice**Chairperson***CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the 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.

**MARIA LOURDES P. A. SERENO***Chief Justice*