



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 206912**

Present:

VELASCO, JR.,\*  
LEONARDO-DE CASTRO,\*\*  
*Acting Chairperson,*  
BERSAMIN,  
PEREZ, and  
PERLAS-BERNABE, JJ.

- versus -

**DEMOSTHENES BONTUYAN,**  
Accused-Appellant.

Promulgated:

**SEP 10 2014**

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**DECISION**

**PEREZ, J.:**

Before this Court is an appeal from the Decision<sup>1</sup> of the Twentieth Division of the Court of Appeals (CA), Cebu City in CA-G.R. CR.-H.C. No. 01112 affirming *in toto* the Joint Decision<sup>2</sup> in Criminal Case Nos. CBU-74092 and CBU-74093 rendered by the Regional Trial Court (RTC), Branch 13 of Cebu City. The RTC Joint Decision found Demosthenes Bontuyan (accused-appellant) guilty beyond reasonable doubt of violations of Sections 11 and 12, Article II of Republic Act No. 9165 (R.A. No. 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

***The Facts***

\* Per Special Order No. 1772 dated 28 August 2014.

\*\* Per Special Order No. 1771 dated 28 August 2014.

<sup>1</sup> Rollo, pp. 3-24; Penned by Associate Justice Carmelita Salandanan-Manahan with Associate Justices Ramon Paul L. Hernando and Maria Elisa Sempio Diy, concurring.

<sup>2</sup> Records, pp. 135-139; Penned by Presiding Judge Meinrado P. Paredes.

The accused-appellant was charged with the crimes of violations of Sections 11 and 12, Article II of R.A. No. 9165, in two (2) Informations, both dated 27 July 2005, which respectively read as follows:

Criminal Case No. CBU-74092 (For violation of Section 11, R.A. No. 9165)

That on or about the 26<sup>th</sup> day of July, 2005, at about 4:55 A.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in his/her (sic) possession and under his/her (sic) control the following:

“Twenty (20) small heat-sealed plastic sachets each containing white crystalline substance having a total weight of 7.04 grams.”

locally known as “SHABU”, containing methamphetamine hydrochloride a dangerous drug/s, without being authorized by law.<sup>3</sup>

Criminal Case No. CBU-74093 (For violation of Section 12, R.A. No. 9165)

That on or about the 26<sup>th</sup> day of July, 2005, at about 4:55 o’clock A.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with [deliberate] intent, and without any lawful purpose, did then and there have in his possession and control the following:

1. one (1) disposable lighter
2. one (1) tinfoil strip
3. two (2) pcs. used candle
4. one (1) long folded tissue paper

fit or intended for smoking, consuming, administering, ingesting or introducing any dangerous drug into the body.<sup>4</sup>

Upon arraignment, accused-appellant pleaded not guilty to said charges.<sup>5</sup> Pre-trial followed limiting the issues to: (1) whether or not in the implementation of the search warrant, the police officers committed irregularities; and (2) whether or not there were *shabu* and *shabu* paraphernalia recovered from his house. Incidentally, the defense admitted

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<sup>3</sup> Id. at 1.

<sup>4</sup> Id. at 12.

<sup>5</sup> Id. at 19; Certificate of Arraignment dated 5 September 2005; RTC Order dated 5 September 2005. Id. at 20.

the identity of the accused-appellant and the fact of the search but not as to the manner it was conducted.<sup>6</sup> Thereafter, a joint trial proceeded.

Records reveal that, based on the evidence presented,<sup>7</sup> the summary of factual findings shows various versions of the story:

**The Evidence of the Prosecution**

The prosecution, through the corroborative testimonies of its two (2) police officer witnesses, PO2 Jonas Tahanlangit<sup>8</sup> [(Tahanlangit) and] SPO1 Alfredo Petallar [(SPO1 Petallar)], was able to establish the following:

By virtue of Search Warrant No. 07-05-F issued by the court *a quo* against accused[-appellant], a team of Police Officers headed by P/Supt. Pablo Labra, with members PO2 [Tahanlangit] designated as the Searcher and SPO1 Petallar as the Recorder, together with some SWAT and CIIB members implemented the said warrant on July 26, 2005, at around 4:55 early dawn at Sitio Dita, Barangay Pulangbato, Cebu City.

With the assistance of PO1 Luardo, one of the deponents for the issuance of the Search Warrant, the team was able to locate the residence of the accused[-appellant]. Upon their arrival, PO2 [Tahanlangit] saw the accused[-appellant] sleeping. He knocked the door calling the accused[-appellant's] attention; informed him that they have a search warrant; and ordered him to read the same. After reading the warrant, accused requested that his brother, Barangay Councilor Segundo Bontuyan, Jr. [(Councilor Bontuyan)], be summoned to witness the search, which the police officers granted. In less than one (1) minute and being a neighbour of the accused[-appellant], Councilor Bontuyan arrived at the subject house and read the search warrant.

Thenceforth, the searcher PO2 [Tahanlangit], together with SPO1 Petallar, witnesses Councilor Bontuyan and Barangay Tanod [Lucio] Leyson [(Barangay Tanod Leyson)], conducted the search first in the sala where he found no illicit items. They went to the room where he found one (1) tin foil, two (2) used candles, one (1) disposable lighter, (and) one (1) folded long tissue paper found on top of a small wooden stool. When they proceeded to the lower portion of the house, PO2 [Tahanlangit] found a plastic container with a name Centrum. Councilor Bontuyan opened the container and found therein twenty (20) small packs of white crystalline substance believed to be shabu.

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<sup>6</sup> Id. at 51; Pre-trial Order dated 29 August 2007.

<sup>7</sup> The prosecution proffered the testimonies of Forensic Chemical Officer Pinky Sayson-Acog of the PNP Crime Laboratory, PO2 Jonas Tahanlangit, and SPO1 Alfredo Petallar; while the defense presented as its witnesses accused-appellant Demosthenes Bontuyan with the testimonies of his brother Councilor Segundo Bontuyan, Jr. and Barangay Tanod Lucio Leyson as corroborating witnesses.

<sup>8</sup> Records, pp. 4 and 15; Witness' family name should be spelled "Tahanlangit" as appearing in his affidavit dated 27 July 2005.

PO2 [Tahanlangit] turned over the confiscated items to SPO1 Petallar for proper inventory. The latter, who was designated as the “Recorder” then prepared a Receipt and a Certificate of Good Conduct of the Search which were duly signed by Councilor Bontuyan and Barangay Tanod Leyson. Accused refused to sign them.

The police officers then placed the accused under arrest, informed him of his constitutional rights, and proceeded to the Police Station with the confiscated items. SPO1 Petallar took custody of the evidence and marked the twenty (20) plastic sachets with SW-DB-1 to SW-DB-20.<sup>9</sup>

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**The Evidence of the Accused-Appellant**

The defense presented another version of the story. The corroborative testimonies of accused[-appellant], his brother Councilor Bontuyan and Barangay Tanod Leyson showed that on July 26, 2004 at around 4 o'clock in the morning, accused was sleeping at the house of his deceased parents when somebody woke him up. He turned the lights on and saw some police officers in uniform informing him that they are conducting a raid in his house. Showing no authority to search the house, accused argued that the said search cannot be done. He also requested that his brother be ordered to witness the search, which the police officers acceded.

While accused's brother was being fetched by one of the implementing officers, he stayed in the living room. Thereafter, they placed a plastic bottle of Pharmaton vitamins in the table.

Just across the house subject of the raid, Segundo Bontuyan, Jr., accused's brother, was sleeping in their house when he was awakened by police officers who commanded him to go with them to witness the search. When he reached his parents' house, he saw his brother being handcuffed in the nook of the house.

When Councilor Bontuyan arrived, the police officers commanded him to open the plastic bottle and when he did so, they declared that the small packs inside it were shabu. They then introduced themselves as police officers and informed the accused that they were conducting a raid. The accused got scared but did not resist or attempt to run. He was then brought to the police station.

Barangay Tanod Leyson testified that when he arrived at the place of the raid, he saw accused seated in the house already handcuffed. The police officers then announced that they should start and subsequently opened the bottle placed on top of the table. When the bottle was opened, the police officers uttered that there was shabu. Later, he was instructed to

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<sup>9</sup>

Rollo, pp. 6-8.

sign a piece of document. He requested permission to go home and left the place.<sup>10</sup>

### *The Ruling of the RTC*

The RTC rendered a Joint Decision<sup>11</sup> finding accused-appellant guilty beyond reasonable doubt for violations of Sections 11 and 12 of R.A. No. 9165, the dispositive portion of which is as follows:

WHEREFORE, judgment is hereby rendered finding accused Demosthenes Bontuyan GUILTY of Violation of Section 11, Article II, RA 9165 for possession of 7.04 grams of shabu containing [methamphetamine] hydrochloride and sentences him to suffer a penalty of imprisonment of from twenty (20) years and one (1) day to life imprisonment plus fine in the amount of P400,000.00. And for Violation of Sec. 12, Article II, RA 9165 the court sentences him to six (6) months and one (1) day to two (2) years imprisonment plus fine in the amount of P10,000.00.

The twenty (20) heat-sealed plastic sachets containing white crystalline substance locally known as shabu with a total weight of 7.04 grams and marked as Exhibit “B” for the prosecution and the shabu paraphernalia marked as Exhibit “H” are hereby ordered confiscated and destroyed pursuant to RA 9165.<sup>12</sup>

The trial court relied on the fact that accused-appellant was the lone occupant and thus had full control of the house where the illegal drugs and paraphernalia were confiscated. Consequently, everything in it were considered to be his own or under his possession. It likewise explained that the following established factual circumstances further strengthened the fact of his guilt beyond reasonable doubt: (a) an inventory was conducted in the presence of the accused and his brother who is an elected official; (b) the accused-appellant, and the object evidence were brought to the police station; and (c) the object evidence consisting of twenty (20) packs of *shabu* were examined and found to be positive for the presence of methamphetamine hydrochloride. Accordingly, the RTC ruled that the chain of custody of the object evidence was substantially established, and that the integrity and the evidentiary value of the seized items were properly preserved by the apprehending team since there appears no evidence of substitution or tampering with said evidence.<sup>13</sup>

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<sup>10</sup> Id. at 8-10.

<sup>11</sup> Records, pp. 135-139.

<sup>12</sup> Id. at 139.

<sup>13</sup> Id. at 138.

### *The Ruling of the CA*

On intermediate appellate review, the CA affirmed the RTC's Joint Decision in convicting the accused-appellant. It ruled that the prosecution was able to sufficiently bear out the statutory elements of the crime, to wit: (a) the accused was in possession of an item or an object identified to be a prohibited or regulated drug; (b) such possession is not authorized by law; and (c) the accused was freely and consciously aware of being in possession of the drugs.<sup>14</sup> More so, it elaborated that possession of dangerous drugs constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of a satisfactory explanation of such possession. In other words, the burden of evidence was shifted to the accused to explain the absence of knowledge or *animus possidendi*. Unfortunately, accused-appellant failed to do so in the instant case since he merely relied on the defense of denial or frame-up, which was weak without any clear and convincing evidence to back it up.<sup>15</sup>

In addition, the undisputed fact that accused-appellant's witnesses, Councilor Bontuyan and *Barangay Tanod* Leyson, signed their names on the Receipt of Property Seized prepared by the police officer, clearly implied their conformity to the contents thereof. Hence, it became apparent that these two *Barangay* Officials, who witnessed the implementation of the subject search operation, knew that it was conducted legally. The appellate court further ruled that while there may be inconsistencies or contradictions on the testimonies of the prosecution's witnesses, the same cannot affect accused-appellant's culpability because such inconsistencies have no relevance with the elements of the offense charged. Thus, inconsistency, which has nothing to do with the elements of the crime, is not a ground to reverse a conviction.<sup>16</sup> Besides, in criminal cases, the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge, whose conclusion thereon deserves much weight and respect, because the judge has the unique opportunity to observe their demeanor, conduct and manner while testifying.<sup>17</sup>

Moreover, the CA held that the prosecution's evidence clearly established an unbroken link in the chain of custody, thus removing any

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<sup>14</sup> Rollo, p. 14; CA Decision citing *David v. People*, G.R. No. 181861, 17 October 2011, 69 SCRA 150, 157.

<sup>15</sup> Id. at 15 citing *People v. Lorie Villahermosa*, G.R. No. 186465, 1 June 2011, 650 SCRA 256, 274 and *People v. Velasquez*, G.R. No. 177224, 11 April 2012, 669 SCRA 307, 317-318.

<sup>16</sup> Id. at 16-17 citing *People v. Lorie Villahermosa*, G.R. No. 186465, 1 June 2011, 650 SCRA 256, 276.

<sup>17</sup> Id. at 16 citing *People v. Abedin*, G.R. No. 179936, 11 April 2012, 669 SCRA 322, 336 and *People v. Miguel*, G.R. No. 180505, 29 June 2010, 622 SCRA 210, 220-221.

doubt or suspicion that the *shabu* and *shabu* paraphernalia had been altered, substituted or otherwise tampered with. Said unbroken link in the chain of custody also precluded the possibility that a person, not in the chain, ever gained possession of the seized evidence.<sup>18</sup>

Lastly, as regards the violation of Section 12, Article II of R.A. No. 9165, it was ruled that the crime was deemed consummated the moment accused-appellant was found in possession of said articles without the necessary license or prescription. What is primordial is the proof of the illegal drugs and paraphernalia recovered from the accused-appellant.<sup>19</sup>

### ***The Issue***

Whether or not the RTC and the CA erred in finding that the evidence of the prosecution was sufficient to convict accused-appellant for violations of Sections 11 and 12, Article II of R.A. No. 9165.

### ***Our Ruling***

We sustain the judgment of conviction.

In resolving the issue, accused-appellant seeks before this Court to delve into the factual matters of the case. However, settled is the rule that factual findings of the appellate court affirming those of the trial court are binding on this Court, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error.<sup>20</sup> Considering that accused-appellant failed to show any arbitrariness, palpable error, or capriciousness on the findings of fact of the trial and appellate courts, these findings deserve great weight and are deemed conclusive and binding. Besides, an assiduous review of the records at hand reveals that the CA did not err in affirming accused-appellant's conviction.

By way of emphasis, we have adhered to the time-honored principle that for illegal possession of regulated or prohibited drugs, the prosecution must establish the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and

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<sup>18</sup> Id. at 21 citing *People v. Alivio*, G.R. No. 177771, 30 May 2011, 649 SCRA 318, 333-334.

<sup>19</sup> Id. at 22 citing *David v. People*, G.R. No. 181861, 17 October 2011, 659 SCRA 150.

<sup>20</sup> *People v. Quiamanlon*, G.R. No. 191198, 26 January 2011, 640 SCRA 697, 706 citing *Fuentes v. CA*, 335 Phil. 1163, 1167-1168 (1997).

consciously possessed the drug.<sup>21</sup> In the case at bench, all these elements were duly established by the prosecution. As aptly pointed out by the appellate court:

Despite the presence of such inconsistencies, the categorical fact remains, as proven by the implementing police officers, **that there were indeed illegal drugs and paraphernalia recovered from the house of the accused-appellant where he was the sole occupant. With positive and straight-forward declarations, the police officers proved that the seized items composing the twenty (20) sachets marked with SW-DB-1 to SW-DB-20 and the shabu paraphernalia – one (1) disposable lighter, one (1) tin foil strip, two (2) used candles and one (1) long tissue paper – were the same illicit items recovered during the implementation of the search warrant issued against accused-appellant. What assumes primary importance in drug cases is the prosecution’s proof, to the point of moral certainty, that the prohibited drug presented in court as evidence against the accused is the same item recovered from his possession. In the same vein, the testimonial evidence coincides and concurs with the pieces of object evidence presented before the Court affording greater strength to the case of the prosecution.**<sup>22</sup> (Emphasis supplied)

Certainly, accused-appellant was found to have in his possession 7.04 grams of *shabu* and some drug paraphernalia. There was nothing in the records showing that he had authority to possess them. And jurisprudence is rich in pronouncing that mere possession of a prohibited drug constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of any satisfactory explanation.<sup>23</sup> Worst, accused-appellant likewise failed to present contrary evidence to rebut his possession of the *shabu* and drug paraphernalia; hence, his guilt was indeed established beyond reasonable doubt.

Also, it is worthy to mention that failure to strictly comply with the prescribed procedures in the inventory of seized drugs does not render the arrest of the accused-appellant illegal or the item seized/confiscated from him inadmissible. The essential thing to consider is “the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.”<sup>24</sup> Thus, applying the foregoing principle in the case at bench, the chain of

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<sup>21</sup> *People v. Bautista*, G.R. No. 177320, 22 February 2012, 666 SCRA 518 citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 451.

<sup>22</sup> *Rollo*, p. 17; CA Decision citing *People v. De Jesus*, G.R. No. 191753, 17 September 2012, 680 SCRA 680, 690-691.

<sup>23</sup> *People v. Quiamanlon*, *supra* note 20 citing *Buenaventura v. People*, 556 Phil. 331, 345 (2007).

<sup>24</sup> *People v. Le*, G.R. No. 188976, 29 June 2010, 622 SCRA 571, 583. See also *People v. Domado*, G.R. No. 172971, 16 June 2010, 621 SCRA 73, 91-92.



custody<sup>25</sup> of the seized prohibited drugs was adequately established herein. The CA affirmed that:

In the instant case, the prosecution substantiated beyond an iota of doubt the preservation of the integrity and evidentiary value of the seized items as provided for by the rules. **Records show that immediately after the seizure of the illegal items recovered inside the house of the accused-appellant, the designated searcher, PO2 [Tahanlangit], turned them over to SPO1 Petallar who thereafter prepared the Receipt of Property Seized and the Certification of Good Conduct Search both duly signed by witnesses Barangay Councilor Bontuyan and Barangay Tanod Leyson. SPO1 Petallar took custody of the seized items and marked them at the police station with SW-DB-1 to 20. The illegal paraphernalia were placed inside a plastic cellophane collectively marked Exhibit “H”.**

**At the police station, a Request for Laboratory Examination was prepared by Police Chief Labra. The request, together with the illegal drugs, were duly delivered by SPO1 Petallar to the Philippine National Police Crime Laboratory. As per Chemistry Report No. D-1079-2005 duly admitted by the court *a quo*, the specimen submitted with markings SW-DB-1 to 20 were positive for the presence of Methamphetamine Hydrochloride, a dangerous drug. Under the circumstance, the prosecution’s evidence clearly established an unbroken link in the chain of custody, thus removing any doubt or suspicion that the shabu and drug paraphernalia had been altered, substituted or otherwise tampered with. The unbroken link in the chain of custody also precluded the possibility that a person, not in the chain, ever gained possession of the seized evidence.**<sup>26</sup> (Emphases supplied)

Admittedly, a testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items.<sup>27</sup> Here, there was substantial compliance with the law and the integrity of the seized items from accused-appellant was preserved.

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<sup>25</sup> Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 which implements R.A. No. 9165 defines “Chain of Custody” as follows:

“Chain of Custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

<sup>26</sup> *Rollo*, pp. 20-21.

<sup>27</sup> *People v. Castro*, G.R. No. 194836, 15 June 2011, 652 SCRA 393, 404-405.

Accused-appellant further insists that the courts relied mainly on the version of the prosecution's witnesses and placed more weight on the presumption of regularity in the performance of duty instead of the accused's right to be presumed innocent.

In *People v. De Guzman*,<sup>28</sup> we held that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting illmotive on the part of the police officers. In this case, accused-appellant failed to show that the police officers deviated from the regular performance of their duties. His defense of denial is weak and self-serving. Unless corroborated by other evidence, it cannot overcome the presumption that the police officers have performed their duties in a regular and proper manner. The defense simply failed to show any ill motive or odious intent on the part of the police officers to impute such a serious crime that would put in jeopardy the life and liberty of an innocent person, such as in the case of accused-appellant. Additionally, in weighing the testimonies of the prosecution's witnesses vis-à-vis that of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.<sup>29</sup>

While it is true that an accused in a criminal case is presumed innocent until proven guilty, the evidence of the prosecution must stand on its own strength and not rely on the weakness of the evidence of the defense.<sup>30</sup> In this case, the quantum of evidence necessary to prove accused-appellant's guilt beyond reasonable doubt had been sufficiently met. Accordingly, the prosecution was able to overcome accused-appellant's constitutional right to be presumed innocent.

Of equal importance is the propriety of the penalties imposed by the trial court against accused-appellant, which we find in accord with the provisions of R.A. No. 9165, the Indeterminate Sentence Law (ISL), and in line with recent jurisprudential pronouncements.

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<sup>28</sup> 564 Phil. 282, 293 (2007).

<sup>29</sup> *People v. Sembrano*, G.R. No. 185848, 16 August 2010, 628 SCRA 328, 342 citing *People v. Lamado*, G.R. No. 185278, 13 March 2009, 581 SCRA 544, 552 and *People v. Remerata*, G.R. No. 147230, 449 Phil. 813, 822 (2003).

<sup>30</sup> *People v. De Guzman*, supra note 28 at 294.

In sum, we find no cogent reason to depart from the decisions of the RTC and the CA. Accused-appellant is guilty beyond reasonable doubt of violations of Sections 11 and 12, Article II of R.A. No. 9165.


**WHEREFORE**, the appeal is **DENIED**. The Court of Appeals Decision in CA-G.R. CR.-H.C. No. 01112, is **AFFIRMED** in all respects.

**SO ORDERED.**




**JOSE PORTUGAL PEREZ**  
Associate Justice

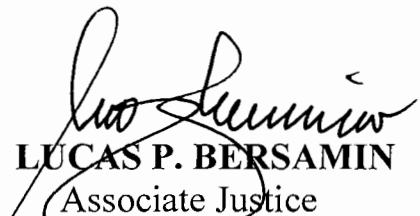
WE CONCUR:




**PRESBITERO J. VELASCO, JR.**  
Associate Justice



**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson



**LUCAS P. BERSAMIN**  
Associate Justice



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

**ATTESTATION**

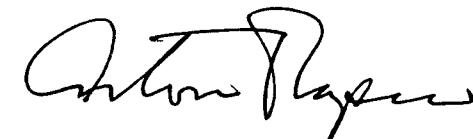
I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**TERESITA J. LEONARDO-DE CASTRO**

Associate Justice  
Acting Chairperson, First Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Acting Chief Justice