



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,** **G.R. No. 212565**  
 Plaintiff-Appellee, Present:

- versus -

SERENO, C.J., Chairperson,  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PEREZ, and  
 PERLAS-BERNABE, JJ.

**BENJAMIN CASAS y VINTULAN,** Promulgated:  
 Accused-Appellant. FEB 25 2015

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**DECISION**

**PERLAS-BERNABE, J.:**

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Benjamin Casas y Vintulan (Casas) assailing the Decision<sup>2</sup> dated November 20, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 05313 which affirmed the Decision<sup>3</sup> dated November 4, 2011 of the Regional Trial Court of Pasig City, Branch 160 (RTC) in Crim. Case Nos. 136842 and 136843, finding Casas guilty beyond reasonable doubt of the crimes of Murder and Attempted Homicide under Articles 248 and 249 of the Revised Penal Code (RPC), respectively.

<sup>1</sup> See Notice of Appeal dated December 9, 2013; *rollo*, pp. 26-27.  
<sup>2</sup> Id. at 2-25. Penned by Associate Justice Stephen C. Cruz with Associate Justices Magdangal M. De Leon and Myra V. Garcia-Fernandez concurring.  
<sup>3</sup> CA *rollo*, pp. 29-37. Penned by Judge Myrna V. Lim-Verano.

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### The Facts

Two (2) criminal Informations were filed before the RTC charging Casas of the Murder of Joel Tabile y Gulla<sup>4</sup> (Joel) and the Frustrated Murder of Eligio<sup>5</sup> Ruiz y Ricardo<sup>6</sup> (Eligio), the pertinent portions of which respectively read:

#### **Crim. Case No. 136842**

That, on or about the 24<sup>th</sup> day of December, 2007, in the City of San Juan, a place within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with another person, whose true identity and present whereabouts are unknown, with the use of a bladed weapon, a deadly weapon, with intent to kill and by means of the qualifying circumstance treachery (sic), evident premeditation and abuse of superior strength, did, then and there willfully, unlawfully and feloniously attack, assault and stab one Joel Tabile y Gulla, thereby inflicting upon the latter several stab wounds on the different parts of his body, which directly caused his death.

CONTRARY TO LAW.<sup>7</sup>

#### **Crim. Case No. 136843**

That, on or about the 24<sup>th</sup> day of December, 2007, in the City of San Juan, a place within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with another person, whose true identity and present whereabouts are unknown, with intent to kill and by means of the qualifying circumstance treachery, evident premeditation and abuse of superior strength, which qualifies the crime to frustrated murder, with the use of a bladed weapon, a deadly weapon, did, then and there willfully, unlawfully and feloniously attack, assault and stab one Elegio Ruiz y Ricardo, thereby inflicting upon the latter several stab wounds on the different parts of his body, which ordinarily would have caused his death, thus, performing all the acts of execution which would produce the crime of murder as a consequence but which nevertheless, did not produce it by reason of causes independent of the will of the accused, that is, due to the timely medical assistance rendered unto said Elegio Ruiz y Ricardo, which prevented his death.

CONTRARY TO LAW.<sup>8</sup>

During arraignment, Casas entered a plea of not guilty. After which, joint trial on the merits ensued.<sup>9</sup>

The prosecution's version of the facts is as follows:

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<sup>4</sup> Docketed as Crim. Case No. 136842.

<sup>5</sup> "Elegio" in some parts of the records.

<sup>6</sup> Docketed as Crim. Case No. 136843.

<sup>7</sup> *Rollo*, pp. 2-3.

<sup>8</sup> *Id.* at 3. See also *CA rollo*, pp. 13-14.

<sup>9</sup> *Rollo*, p. 3.

On December 24, 2007, between 1 to 2 o' clock in the afternoon, Casas, accompanied by a certain "Ron-Ron" (Ron-Ron), went to a certain *taho* factory located at 313 F. Roman Street, San Juan City, looking for a certain Jesus. Failing to find the person he was looking for, Casas brandished a knife and stuck it into a pail used for making *taho*. Consequently, Eligio, an employee of the *taho* factory, confronted Casas, saying to the latter, "*Benjie* [(referring to Casas)], *bakit ang yabang mo? Kung hindi mo makita ang kalaban mo, dapat hanapin mo na lang.*" Casas replied "*Gusto mo ito?* (referring to his knife)." Eligio told Casas to get rid of the knife, which the latter gave to Ron-Ron. Eligio and Casas then had a fistfight. During the ensuing melee, Casas took the knife from Ron-Ron and stabbed Eligio twice while the latter was fleeing. Casas, during his continued pursuit of Eligio, then ran into Joel, who, for his part, tried to help Eligio with the use of a bamboo pole. However, Joel slipped, fell face first on the floor, and was prostrate. There and then, Casas stabbed him twice, the first blow entering his back and exiting at the front of his torso, and the second blow hitting the left side of his abdomen. Casas managed to overtake Eligio, and stabbed him again on the stomach. Fearing that Casas would kill him, Eligio grabbed a plastic stool and hit Casas on the head with it, forcing the latter to drop the knife and cease the attack. PO1 Silverio R. Fuentes (PO1 Fuentes) claimed that he was riding his motorcycle on the date of the incident when he met PO3 Eduardo Fronda (PO3 Fronda) who asked for assistance as the latter saw a bloodied male. The two immediately proceeded towards the victim, who turned out to be Casas, and asked him what happened. The latter replied that he had just stabbed someone. After confirming that there was indeed a stabbing incident nearby, PO1 Fuentes and PO3 Fronda arrested Casas.<sup>10</sup>

After the prosecution rested its case, Casas filed a demurrer to evidence<sup>11</sup> on the basis of the alleged inconsistencies in the testimonies of the prosecution witnesses, which the RTC denied in an Order<sup>12</sup> dated December 30, 2010.<sup>13</sup> With the demurrer's denial, the defense changed its theory as Casas admitted that he stabbed both Joel and Eligio but interposed self-defense to justify his actions.<sup>14</sup> In particular, Casas claimed that he was a former employee of the *taho* factory and that on December 24, 2007, the date of the incident, his former employer asked him to get the remainder of his salary. While at the factory, Joel challenged him to a fight. Casas averred that he refused to accept Joel's challenge, but the latter took a knife and attacked him. During the alleged attack, Casas posited that he suffered minor injuries when he disarmed and stabbed Joel. Eligio and one Rolando Jaronel witnessed the fight, and when they saw that Casas stabbed Joel they began to attack him also. In order to protect himself, Casas repeatedly stabbed Eligio. He maintained that he did not intend to kill Joel.<sup>15</sup>

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<sup>10</sup> See *id.* at 4-7.

<sup>11</sup> Not attached to the *rollo*.

<sup>12</sup> Not attached to the *rollo*.

<sup>13</sup> See *rollo*, p. 7. See also *CA rollo*, p. 33.

<sup>14</sup> *CA rollo*, p. 33.

<sup>15</sup> See *rollo*, pp. 7-8.

### The RTC Ruling

In a Decision<sup>16</sup> dated November 4, 2011, the RTC convicted Casas of the following:

(a) in Crim. Case No. 136842, Murder (of Joel), thereby sentencing him to suffer the penalty of *reclusion perpetua*, with all the concomitant accessory penalties, and ordering him to pay the amounts of ₱50,000.00 in civil indemnity, ₱12,500.00 in actual damages, ₱37,200.00 in loss of earning capacity, ₱30,000.00 in moral damages, ₱30,000.00 in exemplary damages, and costs; and

(b) in Crim. Case No. 136843, Attempted Homicide (of Eligio), thereby sentencing him to suffer an indeterminate penalty of imprisonment of six (6) months of *arresto mayor*, as minimum, to three (3) years and six (6) months of *prision correccional*, as maximum, and ordering him to pay the amount of ₱14,000.00 as temperate damages, and costs.<sup>17</sup>

It declared that the evidence on record did not support Casas's theory of self-defense, observing that the victims showed no unlawful aggression towards Casas. On the other hand, the prosecution's witnesses invariably testified that it was Casas who wielded a knife, brought it to bear on Eligio, then on Joel as he lay prostrate, and again on Eligio as he was fleeing, establishing that Casas was the aggressor. Further, it was pointed out that Casas suffered only nine (9) injuries, consisting of three (3) abrasions, one (1) contusion, and five (5) incised wounds, which did not, collectively or individually, threaten his life at any time.<sup>18</sup> Conversely, Joel was killed because of the stab wounds that Casas inflicted, while Eligio was stabbed multiple times. As such, the second requirement under Article 11 (1) of the RPC, *i.e.*, the reasonable necessity of the means employed to repel the unlawful aggression, was non-existent.<sup>19</sup>

Meanwhile, the RTC found that Casas stabbed Joel twice when the latter slipped, fell, and lay prostrate, and in that position Joel could not defend himself. Accordingly, it ruled that Casas employed treachery in killing Joel, and thus should be convicted for Murder.<sup>20</sup>

As for Eligio, the RTC opined that though Casas's intent to kill the former was present (as shown by the weapon he used, the number of wounds

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<sup>16</sup> CA *rollo*, pp. 29-37.

<sup>17</sup> Id. at 37.

<sup>18</sup> See id. at 33.

<sup>19</sup> See id. at 33-34.

<sup>20</sup> See id. at 34-35.

he inflicted, his resolution to chase and harm Eligio after the latter fled, and the parts of Eligio's body that Casas injured), the circumstances that would qualify the case to Murder were not attendant; therefore, Casas should be convicted only of Homicide in such respect. The RTC also ruled that the said crime was only in its attempted stage given that the prosecution was not able to prove that he performed all the acts of execution which would consummate the Homicide,<sup>21</sup> nor show the nature of Eligio's wounds.<sup>22</sup>

Dissatisfied, Casas appealed<sup>23</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>24</sup> dated November 20, 2013, the CA affirmed the RTC's conviction of Casas but modified the amounts awarded to ₱75,000.00 in civil indemnity, ₱12,500.00 in actual damages, ₱37,200.00 in loss of earning capacity, ₱30,000.00 in moral damages, and ₱30,000.00 in exemplary damages for the Murder of Joel. As for the Attempted Homicide of Eligio, it awarded ₱25,000.00 in temperate damages, and ₱10,000.00 in moral damages, in order to conform with recent jurisprudence.

Aggrieved, Casas filed the instant appeal.<sup>25</sup>

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not Casas's conviction for the crimes of Murder and Attempted Homicide should be upheld.

### **The Court's Ruling**

The appeal is partly meritorious.

The Court first rules on the existence of criminal liability.

Essentially, Casas, in a sudden change of theory from the denial of his demurrer, banks on the justifying circumstance of self-defense in order to overturn his conviction for the crimes of Murder and Attempted Homicide. The statutory basis therefor is Article 11 (1) of the RPC which reads:

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<sup>21</sup> See *id.* at 35-36.

<sup>22</sup> "If the victim's wounds are not fatal, the crime is only attempted murder or attempted homicide." (*Colinares v. People*, G.R. No. 182748, December 13, 2011, 662 SCRA 266, 276.)

<sup>23</sup> See Notice of Appeal dated November 8, 2011; *CA rollo*, p. 47.

<sup>24</sup> *Rollo*, pp. 2-25.

<sup>25</sup> See Notice of Appeal dated December 9, 2013; *id.* at 26-27.

Art. 11. *Justifying circumstances.* — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

*First.* Unlawful aggression;

*Second.* Reasonable necessity of the means employed to prevent or repel it;

*Third.* Lack of sufficient provocation on the part of the person defending himself.

After a careful review of the records, the Court is satisfied that the RTC, as affirmed by the CA, correctly pronounced that the above-mentioned requirements were not present in this case. It is significant to point out that upon invoking the justifying circumstance of self-defense, Casas assumed the burden of proving the justification of his act with clear and convincing evidence. This is because his having admitted the killing required him to rely on the strength of his own evidence, not on the weakness of the prosecution's evidence, which, even if it were weak, could not be disbelieved in view of his admission.<sup>26</sup>

Preliminarily, Casas failed to prove any unlawful aggression on the part of either Joel or Eligio, which is a condition *sine qua non* for the justifying circumstance of self-defense to obtain. **As case law puts it, there can be no self-defense unless the victim committed unlawful aggression against the person who resorted to self-defense.**<sup>27</sup> As shown by the records, it was Casas who was actually the aggressor, as he was the one who wielded a knife, brought it to bear on Eligio, then on Joel as he lay prostrate, and again on Eligio as he was fleeing.<sup>28</sup> Being the party initiating the attack, and overbearing with a deadly weapon, Casas cannot successfully claim that there was unlawful aggression. Verily, for unlawful aggression to be appreciated, there must be an actual, sudden and unexpected attack or imminent danger thereof, not merely a threatening or intimidating attitude,<sup>29</sup> as against the one claiming self-defense. Evidently, the contrary happened in this case.

It bears clarification that the initial fistfight between Eligio and Casas does not indicate that unlawful aggression was employed by the former against the latter considering that Eligio had already yielded from the brawl and, in fact, proceeded to flee. It is well-settled that the moment the first aggressor runs away – if and so such was the case with respect to Eligio – unlawful aggression on the part of the first aggressor ceases to exist; and

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<sup>26</sup> *People v. Mediado*, G.R. No. 169871, February 2, 2011, 641 SCRA 366, 369.

<sup>27</sup> *Razon v. People*, 552 Phil. 359, 373 (2007).

<sup>28</sup> See CA rollo, pp. 33-34.

<sup>29</sup> *People v. Aleta*, 603 Phil. 571, 581 (2009), citing *People v. Caabay*, 456 Phil. 792, 820 (2003).

when unlawful aggression ceases, the defender no longer has any right to kill or wound the former aggressor; otherwise, retaliation, and not self-defense, is committed. Retaliation is not the same as self-defense. In retaliation, the aggression that was begun by the injured party already ceased when the accused attacked him, while in self-defense the aggression was still existing when the aggressor was injured by the accused.<sup>30</sup>

Thus, given that the core element of unlawful aggression was not proven, Casas's claim of self-defense falters and his criminal liability stands.

This notwithstanding, the Court, however, disagrees that Casas should be convicted of the crime of Murder with respect to the incidents in Crim. Case No. 136842, *i.e.*, the death of Joel, considering the prosecution's failure to prove the existence of treachery. The Court expounds.

The elements of Murder that the prosecution must establish are: (a) that a person was killed; (b) that the accused killed him or her; (c) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (d) that the killing is not parricide or infanticide.

Among the qualifying circumstances thus enumerated in Article 248 is treachery. Under Article 14 of the RPC, "[t]here 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." In other words, to appreciate treachery, it must be shown that: (a) the means of execution employed gives the victim no opportunity to defend himself or retaliate; and (b) the methods of execution were deliberately or consciously adopted;<sup>31</sup> indeed, treachery cannot be presumed, it must be proven by clear and convincing evidence.<sup>32</sup>

In *People v. Se*,<sup>33</sup> the Court explained that the essence of treachery is the sudden, unexpected, and unforeseen attack on the victim, without the slightest provocation on the latter's part. **The victim must not have known the peril he was exposed to at the moment of the attack. Should it appear, however, that the victim was forewarned of the danger he was in, and, instead of fleeing from it he met it and was killed as a result, then the qualifying circumstance of treachery cannot be appreciated.**<sup>34</sup>

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<sup>30</sup> *Razon v. People*, supra note 27, at 376-377.

<sup>31</sup> *People v. Corpuz*, G.R. No. 191068, July 17, 2013, 701 SCRA 493, 504.

<sup>32</sup> *People v. Se*, 469 Phil. 763, 771 (2004).

<sup>33</sup> *Id.*

<sup>34</sup> See *id.* at 771-772; citations omitted.

In *People v. Discalsota*,<sup>35</sup> the Court held that treachery **cannot be appreciated in instances when the victim had the opportunity to flee or defend himself.**<sup>36</sup>

In this case, the records show that a fistfight ensued between Eligio and Casas.<sup>37</sup> Joel, seeing that Casas had stabbed Eligio, wanted to help the latter by using a bamboo pole but slipped and fell.<sup>38</sup> As he was lying prostrate on the floor, Casas delivered the blows that ended Joel's life. Under these circumstances, it is the Court's observation that Joel was fully aware of the danger posed in assisting Eligio. He knew that Casas was armed with a knife and had just used the same on Eligio. Joel elected to intervene, and even armed himself with a bamboo pole. Accordingly, it is rather obvious that Joel was aware of the danger to his life. Further, acting in the heat of the moment, and there being no showing that no appreciable interval of time had elapsed from Joel's mishap to his stabbing so as to allow for the assailant's careful reflection, it does not equally appear that Casas deliberately adopted means in order to ensure that Joel had no opportunity to defend himself or retaliate. Palpably, Casas just happened to stab Joel as the latter had just slipped on the floor when the former caught up with him (Joel). Evidently, this lack of deliberation on the part of Casas, as well as Joel's obvious awareness of the danger to his life, prompts this Court to discount treachery as a qualifying circumstance.

Thus, insofar as the incidents in Crim. Case No. 136842 go, the Court downgrades the conviction to the crime of Homicide. In consequence, Casas is instead meted with the penalty of imprisonment with an indeterminate period of six (6) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years of *reclusion temporal*, as maximum, with all the concomitant accessory penalties, for the Homicide of Joel.

The downgrading of Casas's conviction in Crim. Case No. 136842 results in the deletion of the award of ₱30,000.00 in exemplary damages.<sup>39</sup> Further, keeping with recent jurisprudence, the Court is impelled to increase the award of moral damages from ₱30,000.00 to ₱75,000.00,<sup>40</sup> as well as delete the award of ₱12,500.00 in actual damages and, in lieu thereof, award temperate damages in the higher amount of ₱25,000.00.<sup>41</sup> The Court also perceives error in the award of ₱37,200.00 in loss of earning capacity since the established formula thereof was incorrectly applied.

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<sup>35</sup> 430 Phil. 406 (2002).

<sup>36</sup> See *id.* at 418.

<sup>37</sup> *CA rollo*, pp. 30, 32.

<sup>38</sup> *Id.* at 35.

<sup>39</sup> *People v. Bokingo*, G.R. No. 187536, August 10, 2011, 655 SCRA 313, 327.

<sup>40</sup> See *People v. Villalba*, G.R. No. 207629, October 22, 2014.

<sup>41</sup> See *rollo*, p. 23, citing *People v. Andres*, 456 Phil. 355, 369-370 (2003). See also *Almojuela v. People*, G.R. No. 182302, June 2, 2014.



The formula for the computation of loss of earning capacity is as follows:<sup>42</sup>

Net earning capacity = Life Expectancy x [Gross Annual Income - Living Expenses (50% of gross annual income)], where life expectancy =  $\frac{2}{3}$  (80 - the age of the deceased).

Thus, operating under the established facts as found by the RTC that Joel was 22 when he was killed by Casas, and that he had monthly salary of ₱1,000.00 to ₱1,500.00 as a utility man,<sup>43</sup> the loss of earning capacity is computed as such:

$$\begin{aligned} \text{Net earning capacity} &= [2/3(80-22)] \times [(1500 \times 12) - ((1,500 \times 12) \times 50\%)] \\ &= [2/3(58)] \times [₱18,000.00 - ₱9,000.00] \\ &= ₱348,000.00 \end{aligned}$$

Accordingly, the award of loss of earning capacity is increased from ₱37,200.00 to ₱348,000.00 as above-computed. Meanwhile, the civil indemnity award of ₱75,000.00 stands.<sup>44</sup>

In similar light, the Court modifies the award of moral damages in **Crim. Case No. 136843** from ₱10,000.00 to ₱20,000.00 to conform with recent jurisprudence.<sup>45</sup>

Finally, interest at the rate of six percent (6%) per annum shall be imposed on all damages awarded, in both **Crim. Case Nos. 136842 and 136843**, from the date of finality of judgment until fully paid.<sup>46</sup>

**WHEREFORE**, the Court **ADOPTS** the findings of fact and conclusions of law in the Decision dated November 20, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 05313 with **MODIFICATION** in that, in **Crim. Case No. 136842**, considering that the qualifying circumstance of treachery was not proven, accused-appellant Benjamin Casas y Vintulan is found **GUILTY** beyond reasonable doubt only of the crime of Homicide under Article 249 of the Revised Penal Code and is therefore sentenced to suffer the penalty of imprisonment with an indeterminate period of six (6) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years of *reclusion temporal*, as maximum, with all the concomitant accessory penalties.

<sup>42</sup> *People v. Matignas*, 428 Phil. 834, 875 (2002), citing *People v. Verde*, 362 Phil. 305, 321 (1991) and *People v. Mayor Sanchez*, 419 Phil. 808, 817 (2001).

<sup>43</sup> See CA rollo, p. 96.

<sup>44</sup> See *Medina, Jr. v. People*, G.R. No. 161308, January 15, 2014.


<sup>45</sup> See *Colinares v. People*, G.R. No. 182748, December 13, 2011, 662 SCRA 266, 282.

<sup>46</sup> See *Guevarra v. People*, G.R. No. 170462, February 5, 2014. See also *People v. Torres*, G.R. No. 189850, September 22, 2014.

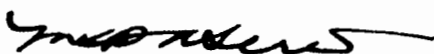
Further, in order to conform with existing jurisprudence, the following monetary awards are **MODIFIED**: in *Crim. Case No. 136842*, (a) the award of ₱12,500.00 in actual damages is deleted and, in lieu thereof, ₱25,000.00 in temperate damages is awarded; (b) the award of loss of earning capacity is increased from ₱37,200.00 to ₱348,000.00; (c) the award of ₱30,000.00 in moral damages is increased to ₱75,000.00; and (d) the award of ₱30,000.00 in exemplary damages is deleted; and in *Crim. Case No. 136843*, the award of ₱10,000.00 in moral damages is increased to ₱20,000.00. In addition, all awards for damages, in *Crim. Case Nos. 136842 and 136843*, shall bear legal interest at the rate of six percent (6%) per annum from the date of finality of judgment until fully paid.

The rest of the CA Decision stands.

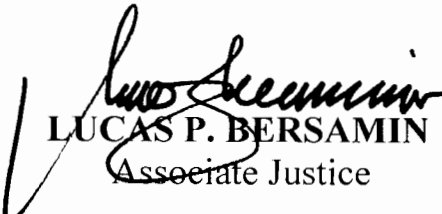
**SO ORDERED.**

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

**WE CONCUR:**

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

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

  
**LUCAS P. BERSAMIN**  
 Associate Justice

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

**CERTIFICATION**

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's Division.



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