



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

XXX,*

G.R. No. 261459

Petitioner,

Present:

- versus -

CAGUIOA, *Chairperson*,
 INTING,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, *JJ.*

**THE COURT OF APPEALS,
 PEOPLE OF THE
 PHILIPPINES, and AAA,**
 Respondents.

Promulgated:

May 20, 2024

X-----*M. S. O. B. A. T.*----- X

DECISION

INTING, J.:

Before the Court is a Petition for *Certiorari*¹ under Rule 65 of the Rules of Court assailing the Court of Appeals (CA) Resolutions dated May 31, 2021,² and April 18, 2022,³ in CA-G.R. CV No. 114839.

* The identity of the victim or any information to establish or compromise his or her identity, as well as those of his or her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, “An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and for Other Purposes”; RA 9262, “An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes”; Section 40 of Administrative Matter No. 04-10-11-SC, known as the “Rule on Violence against Women and Their Children,” effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

¹ *Rollo*, pp. 3–18.

² *Id.* at 23–26. Penne'd by Associate Justice Gabriel T. Robeniol and concurred in by Associate Justices Manuel M. Barrios and Alfredo D. Ampuan of the Tenth Division, Court of Appeals, Manila.

³ *Id.* at 28–29.

In the assailed issuances, the CA directed the execution pending appeal of the Decision⁴ dated October 28, 2019, rendered by Branch ■, Regional Trial Court (RTC), Quezon City in Criminal Case No. R-QZN-17-03746-CR insofar as it ordered XXX (petitioner) to extend future monthly support to AAA (private respondent) and their child BBB in the amount of PHP 15,000.00.

The Antecedents

Petitioner was charged with the violation of Section 5(e)(2)⁵ of Republic Act No. (RA) 9262,⁶ or the “Anti-Violence Against Women and Their Children Act of 2004,” in an Information which reads:

That on or about the month of March 2013 and persisting up to the present time, in Quezon City, Philippines, the above-named accused, did then and there, willfully, unlawfully and feloniously commit economic abuse upon the person of [AAA], his legal wife, and their child, [BBB], a minor, by then and there deliberately depriving them of financial support for the purpose of controlling his wife’s conduct, that is to compel his wife to allow him to regularly visit their child as a condition for the grant of support, thereby depriving them of their basic needs, to the damage and prejudice of the said offended parties.

CONTRARY TO LAW.⁷

On October 28, 2019, the RTC rendered a Decision⁸ finding petitioner guilty beyond reasonable doubt of the offense charged. The dispositive portion of the Decision reads:

WHEREFORE[,] in view of all the foregoing premises, the accused [XXX] is found GUILTY beyond reasonable doubt of violation

⁴ *Id.* at 35–53. Penned by Judge Roberto P. Buenaventura.

⁵ SECTION 5. *Acts of Violence Against Women and Their Children.* — The crime of violence against women and their children is committed through any of the following acts:

....
(e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman’s or her child’s freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman’s or her child’s movement or conduct:

....
(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman’s children insufficient financial support[.]

⁶ Approved on March 8, 2004.

⁷ As culled from the RTC Decision, *rollo*, p. 35.

⁸ *Id.* at 35–53.

of Section 5 (e) [2] of R.A. No. 9262 otherwise known as “Anti-Violence Against Women and Their Children Act of 2004” as charged in the Information.

Accordingly, he is sentenced to suffer the penalty of imprisonment for an indeterminate period of two (2) months and one (1) day of *arresto mayor*, as minimum, to two (2) years and four (4) months and one (1) day of *prision correccional*, as maximum. In addition, accused is also ordered (a) to pay a fine in the amount of [PHP]100,000.00, and (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

The accused is also ordered to pay the private complainant and their child [BBB] monthly support of Fifteen Thousand Pesos ([PHP]15,000.00) and the unpaid accumulated Fifteen Thousand Pesos ([PHP]15,000.00) monthly support to be reckoned from March 2013 up to the present.

SO ORDERED.⁹

Petitioner thereafter applied for probation and moved for the partial reconsideration¹⁰ of the RTC Decision as to his civil liability on the ground that the trial court failed to consider that he was unemployed at a certain period during the pendency of the case; hence, he was not capable of giving support. He thus prayed, among others, that the RTC Decision dated October 28, 2019, be reconsidered by deleting therefrom the portion ordering him to give monthly support to private respondent and BBB.¹¹

In an Order¹² dated December 6, 2019, the RTC denied petitioner’s motion for partial reconsideration stating that the issues raised therein were already resolved in the RTC Decision.

Petitioner thus elevated the case to the CA *via* a Notice of Appeal¹³ on the civil aspect of the RTC Decision.

Meanwhile, private respondent filed a Motion for Issuance of Writ of Execution Pending Appeal¹⁴ (motion for execution pending appeal) before the CA praying for the issuance of a writ of execution as to petitioner’s civil liability for monthly support of PHP 15,000.00 *and* the unpaid accumulated monthly support of PHP 15,000.00 “to be reckoned

⁹ *Id.* at 53.

¹⁰ *Id.* at. 54–59, *see* Application for Probation with Motion for Partial Reconsideration of the Civil Liability.

¹¹ *Id.* at 58.

¹² *Id.* at 60–61.

¹³ *Id.* at 62–63.

¹⁴ *Id.* at 66–70.

from March 2013 up to the present.”¹⁵

The Ruling of the CA

The CA *partially* granted private respondent’s motion in its first assailed Resolution¹⁶ dated May 31, 2021:

WHEREFORE, private complainant-appellee [AAA]’s *Motion for Issuance of Writ of Execution Pending Appeal* is PARTLY GRANTED. Let there be execution pending appeal on the October 28, 2019 Decision of the Regional Trial Court of Quezon City, Branch ■, in Criminal Case No. R-QZN-17-03746-CR, insofar as it ordered accused-appellant [XXX] to extend future support to private complainant-appellee and their child, [BBB], in the amount of Php15,000.00 monthly.¹⁷

....

The CA clarified that there are two types of support in the RTC Decision – future support amounting to PHP 15,000.00 per month and support in arrears or the unpaid accumulated monthly support of PHP 15,000.00 “to be reckoned from March 2013 up to the present.” Citing Rule 39, Section 2¹⁸ of the Rules of Court, the CA held that the immediate execution of the judgment on future support was with a good reason. However, as to the support in arrears, the CA found that private respondent’s justification, i.e., dire financial need, was not a good reason to execute the judgment pending appeal.¹⁹

The CA denied petitioner’s Motion for Reconsideration²⁰ in the second assailed Resolution²¹ dated April 18, 2022.

Hence, the present petition.

¹⁵ *Id.* at 68–69.

¹⁶ *Id.* at 23–26.

¹⁷ *Id.* at 26.

¹⁸ SEC. 2. *Discretionary execution.* —

(a) *Execution of a judgment or final order pending appeal.* — On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction the motion for execution pending appeal may be filed in the appellate court

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

¹⁹ *Rollo*, pp. 25–26.

²⁰ *Id.* at 30–34.

²¹ *Id.* at 28–29.

The Petition

Petitioner contends that the CA committed grave abuse of discretion when it granted private respondent's motion for execution pending appeal which ordered him to pay monthly support to private respondent and their child. He avers that:

- (1) The CA erred in applying Rule 39, Section 4 of the Rules of Court because the provision pertains to judgments in actions for support while the present case involves a judgment for civil liability arising from a criminal offense;²²
- (2) An action for support is not automatically included in a case for violation of RA 9262;²³
- (3) The amount of support awarded by the RTC in its Decision dated October 28, 2019, was based on a contract entered into between petitioner and private respondent on February 5, 2013; thus, the latter was seeking to execute a contractual support under Article 208,²⁴ paragraph 2 of the Family Code;²⁵
- (4) While he had the capacity to pay PHP 15,000.00 a month in 2013, his financial means has been significantly diminished and he is presently no longer gainfully employed;²⁶ and
- (5) The civil liability which private respondent seeks to execute is the subject of an appeal that he filed before the CA. Hence, the issuance of a writ of execution pending appeal may have the effect of pre-empting the CA decision on appeal.²⁷

Anent his prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, petitioner alleges that there is an

²² *Id.* at 9.

²³ *Id.* at 10.

²⁴ Article 208 of the Family Code states:

Art. 208. In case of contractual support or that given by will, the excess in amount beyond that required for legal support shall be subject to levy on attachment or execution. Furthermore, contractual support shall be subject to adjustment whenever modification is necessary due to changes of circumstances manifestly beyond the contemplation of the parties.

²⁵ *Rollo*, p. 11.

²⁶ *Id.*

²⁷ *Id.* at 13.

urgent need therefor because the execution of the judgment on support, if not restrained, would certainly work injustice and irreparable damage to him.²⁸

In her Comment²⁹ to the petition, private respondent counters that the nature of petitioner's liability, i.e., whether *ex delicto* or an independent civil liability, is irrelevant as to whether the judgment should be executed pending appeal. She maintains that petitioner failed to establish that the CA committed grave abuse of discretion in its assailed Resolutions and pointed out that the amount of support is better threshed out in the main appeal and not in the present petition.

For its part, the Office of the Solicitor General (OSG), representing the People of the Philippines, insists that private respondent and BBB are entitled to support during the pendency of the case pursuant to Rule 61, Section 6³⁰ of the Rules of Court. Considering that the civil aspect of the crime had not been waived, reserved, or instituted prior to the filing of the criminal case, the said provision applies under the circumstances availing in the case.³¹

Petitioner filed his Consolidated Reply³² on the comments of the private respondent and the OSG wherein he essentially reiterates the arguments in his petition.

The Issue

The issue for the Court's resolution is whether the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it granted private respondent's motion for execution pending appeal insofar as it ordered petitioner to pay future monthly support.

Our Ruling

The petition has no merit.

²⁸ *Id.*

²⁹ *Id.* at 118-126.

³⁰ SEC. 6. *Support in criminal cases.* -- In criminal actions where the civil liability includes support for the offspring as a consequence of the crime and the civil aspect thereof has not been waived, reserved and instituted prior to its filing, the accused may be ordered to provide support *pendente lite* to the child born to the offended party allegedly because of the crime. The application therefor may be filed successively by the offended party, her parents, grandparents or guardian and the State in the corresponding criminal case during its pendency, in accordance with the procedure established under this Rule.

³¹ *Rollo*, pp. 128-129.

³² *Id.* at 140-147.

In partially granting the motion for issuance of a writ of execution, the CA cited Rule 39, Section 2 of the Rules of Court in that an execution pending appeal requires three conditions: *first*, the prevailing party must file a motion therefor; *second*, there must be a good reason for the issuance of a writ of execution; and *third*, the good reason must be stated in a special order.³³

In turn, the “good reason” relied upon by the CA in the first assailed Resolution was Rule 39, Section 4 of the Rules of Court. It reads:

SEC. 4. *Judgments not stayed by appeal.* — Judgments in actions for injunction, receivership, accounting and support, and such other judgments as are now or may hereafter be declared to be immediately executory, shall be enforceable after their rendition and shall not, be stayed by an appeal taken therefrom, unless otherwise ordered by the trial court. On appeal therefrom, the appellate court in its discretion may make an order suspending, modifying, restoring or granting the injunction, receivership, accounting, or award of support.

The stay of execution shall be upon such terms as to bond or otherwise as may be considered proper for the security or protection of the rights of the adverse party.

To recall, the CA explained that there are two types of support in the RTC Decision – future monthly support amounting to PHP 15,000.00 and support in arrears or the unpaid accumulated monthly support of PHP 15,000.00 “to be reckoned from March 2013 up to the present.” Pursuant to its discretion, the CA held that the immediate execution of the judgment on future support was with a good reason. However, as to the support in arrears, the CA found that private respondent’s justification, i.e., dire financial need, was not a good reason to execute the judgment pending appeal.³⁴ As stated in the first assailed Resolution:

Thus, the part of the RTC’s judgment ordering [petitioner] to give monthly support of Php15,000.00 is immediately executory and enforceable as early as the rendition of said judgment. Section 4, Rule 39, above-quoted constitutes enough “good reason” for an execution pending appeal for the grant of future support.

That, however, is not true for support in arrears.

[Private respondent’s] justification, i.e., dire financial strait, does not rise to the level of a good reason to execute the judgment pending appeal insofar as support in arrears is concerned. The said species of support is no longer indispensable to ensure the recipient’s sustenance unlike future support. Therefore, the general rule should

³³ *National Power Corp. v. Heirs of Antonina Robie*, 793 Phil. 479, 491 (2016).

³⁴ *Rollo*, pp. 25-26.

apply, *i.e.*, execution pending appeal is not to be availed of routinely, but only in extraordinary circumstances.³⁵

At this point, while the Court agrees with the CA's issuance of a writ of execution in relation to the payment of future support, there is a need to clarify the basis therefor pursuant to the applicable rules on the matter.

Preliminarily, the Court notes that the present petition involves the question of whether the CA committed grave abuse of discretion in partially granting private respondent's motion for execution pending appeal.³⁶ Thus, the Court will not touch on the merits of petitioner's appeal on the main case before the CA and shall limit its discussion on the propriety of the issuance of the writ of execution pending appeal.

In this regard, Section 5³⁷ of RA 9262 enumerates the acts of violence against women and their children and gives protective measures

³⁵ *Id.*

³⁶ *Id.* at 66-70.

³⁷ SECTION 5. *Acts of Violence Against Women and Their Children.* — The crime of violence against women and their children is committed through any of the following acts:

- (a) Causing physical harm to the woman or her child;
- (b) Threatening to cause the woman or her child physical harm;
- (c) Attempting to cause the woman or her child physical harm;
- (d) Placing the woman or her child in fear of imminent physical harm;
- (e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:
 - (1) Threatening to deprive or actually depriving the woman or her child of custody or access to her/his family;
 - (2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;
 - (3) Depriving or threatening to deprive the woman or her child of a legal right;
 - (4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties;
- (f) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;
- (g) Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;
- (h) Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to, the following acts:
 - (1) Stalking or following the woman or her child in public or private places;
 - (2) Peering in the window or lingering outside the residence of the woman or her child;
 - (3) Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;

for the victims thereof. More particularly, apart from the penalties stated therein, Section 8 of the law provides for protection orders for the purpose of preventing further acts of violence against a woman and/or her child. This includes giving support, among others:

SECTION 8. *Protection Orders.* — A protection order is an order issued under this Act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and granting other necessary relief. The relief granted under a protection order should serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the barangay protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO). The protection orders that may be issued under this Act shall include any, some or all of the following reliefs:

....

(g) Directing the respondent to provide support to the woman and/or her child if entitled to legal support. Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court[.]

Moreover, pursuant to Section 22 of RA 9262, the provisions on protection orders shall be applicable in criminal cases involving violence against women and their children and/or in the civil actions *deemed impliedly instituted therein*; thus:

SECTION 22. *Applicability of Protection Orders to Criminal Cases.* — The foregoing provisions on protection orders shall be applicable in criminal cases and/or *shall be included in the civil actions deemed impliedly instituted with the criminal actions involving violence against women and their children.* (Italics supplied)

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- (4) Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; and
- (5) Engaging in any form of harassment or violence;
- (i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or denial of access to the woman's child/children.

In connection thereto, the Court issued A.M. No. 04-10-11-SC,³⁸ or the “*Rule on Violence Against Women and Their Children*,” which applies to petitions for protection orders under RA 9262. Section 33(b) thereof reiterates that a petition for protection order is deemed instituted with the criminal action for violations of RA 9262 unless the offended party reserves the right to file it separately:

SECTION 33. *When petition may proceed separately from or be deemed instituted with criminal action.* — (a) An offended party may file a petition for protection order ahead of a criminal action arising from the same act. The same shall proceed separately from the criminal action and shall require only a preponderance of evidence. Upon motion of the petitioner, the court may consolidate the petition with the criminal action.

(b) *Where the offended party chooses to file a criminal action, the petition for protection order is deemed instituted with the criminal action, unless the offended party reserves the right to institute it separately.* (Italics supplied)

In turn, Sections 30 and 31 of A.M. No. 04-10-11-SC specifically provide that a judgment granting permanent protection against acts of violence and other reliefs shall be *immediately executory*, and that appeals from judgments on cases filed under RA 9262 shall *not* stay the enforcement of the final order or judgment. Thus:

SECTION 30. *Judgment.* — If the court finds the petition meritorious; it shall render judgment granting the offended party permanent protection against acts of violence and such other necessary reliefs provided in Section 11 of this Rule. The court shall not deny the issuance of a permanent protection order due to the lapse of time between the act of violence and the filing of the petition, subject to Section 24, R.A. No. 9262. The judgment shall be immediately executory.

SECTION 31. *Appeal.* — Any aggrieved party may appeal by filing a notice of appeal with the court that rendered the final order or judgment within fifteen days from notice and serving a copy thereof upon the adverse party. The appeal shall not stay the enforcement of the final order or judgment.

Corollarily, pursuant to Rule 39, Section 4 of the Rules of Court, “[j]udgments in actions for injunction, receivership, accounting and support, and such other judgments as are now or may hereafter be declared to be *immediately executory*, shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom, unless otherwise ordered by the trial court.” Unlike Section 2 of the same Rule

³⁸ Issued on October 19, 2004.

upon which the CA anchored the assailed Resolutions, Section 4 does not require a good reason for the execution of a judgment pending appeal.

In the case, the RTC Decision, insofar as the award of support is concerned, may be deemed as a protection order as it granted a relief to private complainant and BBB under Section 11(h) of A.M. No. 04-10-11-SC. Being akin to a protection order, the judgment falls under Section 4 of Rule 39 because A.M. No. 04-10-11-SC expressly provides that it shall be immediately executory. For this reason, the CA's reliance on Rule 39, Section 2 pertaining to the discretionary execution of judgments is misplaced.

This is not to say, however, that the immediate execution of judgments under Rule 39, Section 4 is without exception. On the contrary, the provision also states that "the appellate court in its *discretion* may make an order suspending, modifying, restoring or granting the injunction, receivership, accounting, or award of support." As ruled in the case of *Villote v. Cangco*:³⁹

Under Section 4, Rule 39 of the Rules of Court, judgments in actions for injunction shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom.

As an exception to this rule, the appellate court in its discretion may make an order suspending, modifying, restoring or granting the injunction as may be considered proper for the security or protection of the rights of the adverse party.

The circumstances of this case – particularly the constitutional issue raised – compel us to temporarily suspend the permanent injunction issued by the trial court in favor of the respondents.⁴⁰
(Emphasis omitted)

Moreover, apart from the foregoing exception, Rule 39, Section 4 further provides that "[t]he stay of execution shall be upon such terms as to bond or otherwise as may be considered proper for the security or protection of the rights of the adverse party."

Consequently, while a writ of execution may be issued directing petitioner to pay support to private respondent and BBB on the basis of A.M. No. 04-10-11-SC, the CA may nonetheless suspend or modify the award of support upon such terms as may be considered proper for the security or protection of the rights of petitioner. This is precisely why the CA, in the exercise of its discretion under the exception stated in Rule 39,

³⁹ G.R. No. 207132 & 207205 (Notice), April 14, 2015.

⁴⁰ *Id.*

Section 4 only *partially* granted private respondent's Motion for Issuance of Writ of Execution Pending Appeal as it deemed proper under the circumstances.

All told, the Court finds that the CA did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in granting private respondent's motion for execution pending appeal as to the award of future support, the grant being duly supported by factual and legal justifications. Consequently, the Court *denies* petitioner's prayer for the issuance of injunctive relief for patent lack of merit.

WHEREFORE, the Petition is **DISMISSED**. The Resolutions of the Court of Appeals dated May 31, 2021, and April 18, 2022, in CA-G.R. CV No. 114839 are **AFFIRMED** as to the partial grant of the Motion for Issuance of Writ of Execution Pending Appeal filed by AAA.

SO ORDERED.




HENRI JEAN FAUL B. INTING
Associate Justice


WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



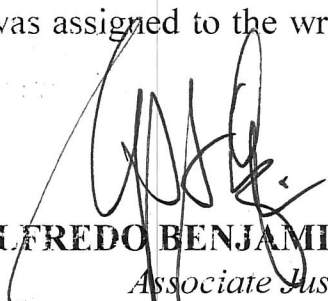
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

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



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice

