

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SILVESTRE SUNPONGCO, HERMINIGILDO SUNPONGCO AND ARSENIO CALAYAG, DEFENDANTS-APPELLANTS.

G.R. No. L-42665. June 30, 1988

Ponente: CORTES, J.

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CORTES, J.:

Defendants appeal from the judgment of the Court of First Instance of Bulacan convicting them of the complex crime of forcible abduction with rape. The appeal was elevated by the Court of Appeals to this Tribunal in view of the penalty of life imprisonment imposed by the trial court.

Juanita Angeles is the complainant in this complex crime of forcible abduction with rape. At the time the alleged crime was committed she was 43 years of age, single, a registered pharmacist by profession and a rice merchant doing business in Hagonoy, Bulacan.

In her complaint she pointed to the three accused-appellants together with one Benjamin Gabriel as the perpetrators of the crime. On March 4, 1965 an information was filed by the Provincial Fiscal accusing the four men of the complex crime of forcible abduction with rape committed as follows:

That on or about the 23[rd] day of October, 1964, in the municipality of Guiguinto, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Silvestre Sunpongco, Benjamin Gabriel, Herminigildo Sunpongco and Arsenio Calayag, conspiring and confederating together and helping one another, did then and there wilfully, unlawfully and feloniously, by means of violence, force, intimidation and trickery and with lewd designs, abduct the complaining witness Juanita F. Angeles, single, by then and there taking and carrying her out of a jeep while she was in Guiguinto and then forcibly loaded in an automobile and thereafter brought to the Hill Top Hotel in Tagaytay City against her will, and once there by means of violence, threats and intimidation, the said accused Silvestre Sunpongco have carnal knowledge of the said Juanita F. Angeles against her will.

That in the commission of this crime the following aggravating circumstances were present, to wit: conspiracy, use of motor vehicle and superior strength. [Records, pp. 61-62].

On June 9, 1965, the accused were arraigned and without the assistance of counsel, they all pleaded not guilty.

Subsequently, on joint motion of the fiscal and the private prosecutors and over the objection of the defense, accused Benjamin Gabriel was discharged by the court to become a state witness.

The prosecution's version of what transpired on the date when said crime was committed is summarized by the trial court, to wit:

. . . that on October 23, 1964, at around 9:00 o'clock in the morning, Juanita Angeles, the offended party, left her residence at Hagonoy, Bulacan to get rice from the RCA warehouse of Dr. Lansan at Guiguinto, Bulacan. She was with one Benita Fabian and they rode a passenger jeep driven by Virgilio Gan. As they reached the

south approach of Tabang Bridge, Guiguinto, Bulacan, a car overtook them and stopped right in front of their jeep, thus forcing them to stop. The car was being driven by accused Arsenio Calayag, and the passengers were the accused Silvestre Sunpongco, Herminigildo Sunpongco and Benjamin Gabriel. Thereafter, the three passengers just mentioned, . . ., alighted from the car and boarded the jeep, after which Silvestre Sunpongco ordered its driver to proceed to the old road. Silvestre Sunpongco sat at the back of Juanita Angeles, Benjamin Gabriel sat behind the driver, and Herminigildo Sunpongco forced himself at the left side of the driver, while Arsenio Calayag followed in the car he was driving.

Upon reaching an uninhabited place on the old road, Silvestre Sunpongco ordered the jeep to stop and the three accused got out. Silvestre tried to pull the offended party out of the jeep, but she struggled and fought back so he ordered Benjamin Gabriel to help him. Benita Fabian, meanwhile, embraced Juanita on the waist and pleaded with the three accused to leave Juanita alone, but Herminigildo Sunpongco separated them by force. Despite her struggling and resisting, the accused were able to pull the offended party out of the jeep, and although Juanita embraced Benita Fabian and asked the latter not to leave her, Silvestre kept on pulling her as Benjamin Gabriel continued pushing her until they were finally able to force her into the car with the aid of a drawn gun. Then Benita Fabian, who was able to free herself from Herminigildo Sunpongco, ran towards the car but Silvestre closed its doors at once. Then Herminigildo pushed Benita and she fell to the ground, after which the former got into the car and it sped away.

They proceeded towards Manila, then to the Hilltop Hotel in Tagaytay City, which is owned by Federico Suntay, a first cousin of accused Silvestre Sunpongco. Upon reaching the hotel, Benjamin Gabriel, Herminigildo Sunpongco and Arsenio Calayag alighted and went inside, while Silvestre and Juanita were left in the car. Then Silvestre tried to pull her out of the car but she resisted, so he drew out his gun again and told her that while he did not like to do it, that was the only way to bring her out. Finally, Silvestre was able to pull her out of the car. He brought her inside the hotel, with one of his arms around her shoulders and the other arm poking the gun at her side, pushed her into a room and locked the door.

Once inside the room, Silvestre Sunpongco pushed Juanita Angeles again and she fell on a chair. Then he embraced and kissed her, and continued taking liberties, as she cried and fought back. Afterwards he removed his pants, pushed her and forced her to lie down on the bed. Although she kicked and rolled on the bed, Silvestre was able to overcome her when he hit her on the stomach, as a result of which she lost consciousness. It was then that Silvestre Sunpongco succeeded in having his first sexual intercourse with her. After that, he went out and locked the room. Due to hunger and physical exhaustion, she must have dozed off, and when she woke up, Silvestre Sunpongco was on top of her again. She struggled and tried to resist him, but to no avail. Silvestre Sunpongco consummated the second sexual intercourse.

Then somebody called for Silvestre and he left the room. Suddenly, she heard the voice of her brother calling her name, so she rushed out to him. Dr. Jose Angeles was there with some CIS agents. She was physically examined the next day by Dr. Ramon Pascual, captain in the Medical Corps of the Philippine Constabulary, who submitted his medico-legal report marked Exhibit "A" containing his findings as follows: lacerations in the complainant's vagina at 9 and 11 o'clock positions, which must be due to the insertion of a penis; vaginal smears are positive for spermatozoa; contusions at the posterior cervical and antero-lateral aspect middle third of the right hip, all of which are compatible with recent sexual contact.

Benita Fabian corroborated the testimony of Juanita Angeles up to when she was left behind at Tabang, after the car carrying all the accused and the offended party sped towards Tagaytay City. [Records, pp. 523-527].

*** **

During the time material to this case Silvestre Sunpongco was 34 years old, a widower with six children, and a La Mallorca bus driver whose highest educational attainment is only grade four. The other accused-appellant Arsenio Calayag was then 36 years of age, married and the regular driver of the car borrowed by Silvestre Sunpongco and

used by them. Herminigildo Sunpongco, the third accused-appellant, was then 27 years old, married and is a nephew of Silvestre Sunpongco.

During the trial of the criminal case, specifically, after the defense had started presenting its evidence but before Silvestre Sunpongco took the witness stand, said accused jumped bail and it was not until six years thereafter that he was arrested and the trial resumed.

The principal accused-appellant Silvestre Sunpongco adduced in evidence his own version of the case before the trial court as follows:

He started courting the complainant a few weeks after the death of his first wife, and the complainant accepted and they agreed to get married. On October 23, 1964 he went to Malolos, on previous agreement with her, for the express purpose of eloping with her. That morning, he rode the car of his sister driven by Arsenio Calayag. On the way, he gave a lift to Herminigildo Sunpongco and Benjamin Gabriel. Upon arriving at Malolos, Juanita Angeles was not there, but they saw her in a jeep going to Guiguinto. So, they followed. At Tabang, he alighted from the car and complainant alighted from the jeep and they talked. Accused Silvestre told her: "If you really love me, you will come with me and we will get married." They agreed to go to Manila to get married, but they later changed their minds and instead proceeded to Cavite. On the way they stopped at the Aristocrat Restaurant to eat, stayed there for more than an hour, then proceeded to Hilltop Hotel at Tagaytay. Later that evening, while in the hotel, Pepito Mangahas, Dr. Jose Angeles and some CIS agents arrived. Pepito asked Silvestre why they were there, and said accused replied that he and complainant had eloped. Then he gave to Pepito the letters which complainant wrote to him. Thereafter, he was brought to Camp Crame.

He did not forcibly abduct complainant, he said. Complainant filed this case against him because she was threatened and forced to do so by her brother. He also added that he did not know why Benjamin Gabriel, his boyhood friend, testified for the prosecution. He jumped bail because Dr. Angeles told him: "I am ready to spend even how much just to put you in jail." [Records, pp. 529-531]

The two other accused-appellants Arsenio Calayag and Herminigildo Sunpongco gave similar testimonies in the trial court as follows:

Between 8:00 and 9:00 A.M. on October 23, 1964 Arsenio Calayag was driving the car owned by Nena de Marucot, Silvestre Sunpongco's sister, which was borrowed by accused Silvestre, towards Manila. Silvestre had Benjamin Gabriel as companion. On the way, they stopped to give Herminigildo Sunpongco a lift. Thereupon, Silvestre requested Herminigildo to go with them because he was going to elope with Juanita Angeles, to which he consented. After crossing Tabang Bridge, they overtook the jeep on which Juanita Angeles and her companion Benita Fabian were riding and which was being driven by Virgilio Gan, and blocked its way so it had to stop. Thereupon, Silvestre, Herminigildo and Benjamin Gabriel alighted from the car and boarded the jeep. Silvestre Sunpongco pulled the complainant by the hand to the car as Benjamin Gabriel simultaneously pushed her from the back. At the same time, Benita Fabian was holding on to the complainant and embracing her, so Herminigildo held Benita to prevent her from going into the car as instructed by Silvestre. From Tabang, they proceeded to Hilltop Hotel, Tagaytay City, stopping only once to buy gasoline. Upon reaching the hotel, Silvestre Sunpongco and Benjamin Gabriel led Juanita Angeles inside, while Arsenio Calayag and Herminigildo Sunpongco left for Hagonoy, but were apprehended on the way by CIS agents. [Records, pp. 528-529].

On October 2, 1975, after due trial, the Bulacan Court of First Instance rendered a decision convicting the three accused-appellants, to wit:

WHEREFORE, this Court finds the accused SILVESTRE SUNPONGCO, HERMINIGILDO SUNPONGCO and ARSENIO CALAYAG guilty beyond reasonable doubt as principals of the complex crime of forcible abduction with rape, as defined and penalized under Articles 335 and 342 in relation to Article 48 of the

Revised Penal Code, and hereby sentences each of them to suffer the penalty of LIFE IMPRISONMENT, with the accessory penalties of the law, to indemnify jointly and severally the complainant Juanita Angeles in the sum of Twenty Thousand Pesos (P20,000.00) as moral damages, and to pay their proportionate share of the costs. [Records, p. 539],

They now interpose this present appeal. Silvestre Sunpongco and Arsenio Calayag filed a joint brief and assigned two errors. Herminigildo Sunpongco likewise filed his own appellant's brief and assigned three errors allegedly committed by the trial court.

Consolidating the assignments of errors made by herein accused-appellants, they raise the following points:

I. THE TRIAL COURT ERRED IN HOLDING THAT IT HAD ACQUIRED JURISDICTION TO TRY THE CASE.

II. THE TRIAL COURT ERRED IN HOLDING THAT THE CRIME OF FORCIBLE ABDUCTION WITH RAPE WAS COMMITTED AND THAT THE APPELLANTS ARE GUILTY THEREOF BEYOND REASONABLE DOUBT.

III. THAT THE LOWER COURT ERRED IN HOLDING THAT CONSPIRACY AMONG THE ACCUSED HEREIN TO COMMIT THE CRIME OF FORCIBLE ABDUCTION WITH RAPE HAS BEEN ESTABLISHED.

I. The alleged lack of jurisdiction of the trial court is assailed by accused-appellants Silvestre Sunpongco and Arsenio Calayag on the ground that the sworn complaint of Juanita Angeles was not formally offered in evidence by the prosecution during the trial of the case.

Article 344 of the Revised Penal Code and Rule 110 Section 5 (formerly Section 4 of the Revised Rules of Court) of the 1985 Rules on Criminal Procedure require that the offenses of abduction and rape and other offenses which cannot be prosecuted de oficio shall not be prosecuted except upon complaint filed by the offended party. Compliance with this is a jurisdictional and not merely a formal requirement.

The Rules of Court further provides that evidence which has not been formally offered shall not be considered by the court. [Rule 132, Section 35]

Applying these rules to the case at bar it is admitted that the sworn complaint of Juanita Angeles was not formally offered in evidence by the prosecution. This failure to adhere to the rules however is not fatal and did not oust the court of its jurisdiction to hear and decide the case. Jurisprudence reveals that if the complaint in a case which cannot be prosecuted de oficio is forwarded to the trial court as part of the records of the preliminary investigation of the case, the court can take judicial notice of the same without the necessity of its formal introduction as evidence for the prosecution [People v. Savellano, G.R. No. L-31227, May 31, 1974, 57 SCRA 320, 324; People v. Tampus, G.R. No. L-42608, February 6, 1979, 88 SCRA 217, 221; and People v. Rondina, G.R. No. L-47895, April 8, 1987, 149 SCRA 128, 132-133].

The records of this case forwarded to the Court of First Instance include the complaint filed by Juanita Angeles in the municipal court of Guiguinto, Bulacan which conducted the preliminary investigation [Records, page 3], Likewise the minutes of the September 3, 1965 hearing shows that the subject complaint was marked as Exhibit "X" by the court as disclosed by the records on page 91.

II. Article 342 of the Revised Penal Code defines and penalizes the crime of forcible abduction. The elements of forcible abduction are (1) that the person abducted is any woman, regardless of her age, civil status, or reputation; (2) that the abduction is against her will; and (3) that the abduction is with lewd designs.

On the other hand, Article 335 of the same Code defines the crime of. rape and provides for its penalty. The

elements of rape pertinent to this case are: (1) that the offender had carnal knowledge of a woman; and (2) that such act is accomplished by using force or intimidation.

Silvestre Sunpongco would insist that he and complainant were sweethearts who agreed to elope on that fateful day in October. This defense however is belied by the manner in which the so-called "elopement" was carried out. Juanita Angeles' version that the abduction was carried out against her will is borne out by the testimonies of witnesses presented by the prosecution as well as by two of the accused-appellants, Arsenio Calayag and Herminigildo Sunpongco. These two admitted during the trial having seen the complainant resisting as she was forced to board the car. On cross-examination, Arsenio Calayag testified thus:

ATTY. OCAMPO:

Q

You said while Juanita Angeles was sitting inside the jeep Silvestre Sunpongco was holding her hands, is it not also a fact he was at the same time pulling Juanita Angeles out of the jeep?

A

Yes, sir.

Q

You also stated that when Juanita Angeles was already on the ground ... Silvestre Sunpongco, Herminigildo Sunpongco and Benjamin Gabriel led her to the car. Will you please tell the Honorable Court how the three of them led her to the car?

A

They were holding her.

Q

The three of them?

A

The two of them.

Q

Who?

A

Benjamin Gabriel and Silvestre Sunpongco.

*** **

Q

On what part of the body Silvestre Sunpongco holding Juanita Angeles?

A

Hands only.

Q

How about Benjamin Gabriel?

A

Waist, sir.

Q

While Silvestre Sunpongco was holding Juanita Angeles on the hands and Benjamin Gabriel by the waist they were pushing her to the car?

A

Yes, sir.

*** **

Q

Silvestre Sunpongco was pulling her by the arm Benjamin Gabriel was pushing her?

A

Benjamin Gabriel was pushing her.

*** **

Q

Is it not a fact that while Silvestre Sunpongco was pulling her and Benjamin Gabriel was pushing her Juanita Angeles was struggling?

*** **

A

Yes, sir. [TSN, June 23, 1967, pp. 90-92, 94-95]. (Italics supplied)

Hermiginildo Sunpongco likewise admitted having witnessed the vain struggles of Juanita Angeles and at the same time her tears when he stated on cross-examination that:

ATTY. OCAMPO:

Q

Will you please tell the Honorable Court how Silvestre Sunpongco was leading Juanita Angeles after she alighted from the jeep in that old road?

A

I noticed that he (sic) was being pulled by the hands of Silvestre Sunpongco while her other hand was holding the jeep.

*** **

Q

And Juanita Angeles was crying at that time?

A

Yes, sir.

Q

And she was finally led into the car by Silvestre Sunpongco because Silvestre Sunpongco was pulling her while Benjamin Gabriel was pushing her at the back?

A

Yes, sir.

Q

All along Juanita Angeles was crying?

A

Yes sir. [TSN. July 21,1967, pp. 123-124]. (Italics supplied)

The three accused-appellants would further negate the probability of carrying on the abduction considering the incident took place in broad daylight and the group had to travel from Guiguinto, Bulacan to Tagaytay City. They aver that in view of these circumstances complainant could have screamed or raised an outcry to summon assistance. Juanita Angeles' conduct however can be explained by her fear at that time when four men suddenly confronted them and positioned themselves in such a way that resistance would be impossible. Further during their travel to Tagaytay City Juanita Angeles was rendered practically helpless. She was forced to sit between Silvestre Sunpongco and Benjamin Gabriel while Arsenio Calayag and Herminigildo Sunpongco sat in front of the car.

The presence of the lewd design is manifested by the subsequent rape that occurred.

At this point, it is noteworthy to mention that the crime of rape is difficult both to prove and to disprove considering the very nature of the offense involving as it does in most cases only two persons. Consequently, the final resolution of the trial court would hinge on whose version is more credible, more plausible and more trustworthy considering the circumstances surrounding its commission.

The case at bar is no different. To prove that the crime of rape was committed the court has to examine carefully the evidence presented by the parties. In this instance the circumstance of force and intimidation attending the crime of rape is manifested not only by the testimony of the complainant but the medico-legal report filed by Capt. Ramon Pascual as well. His findings are as follows:

*** **

Extragenital.

*** **

Contusion at the posterior cervical region, measuring 6 cm. by 4 cm., at the posterior midline, 143 cm. above the heel.

Contusion at the antero-lateral aspect middle third of the right leg, measuring 7 cm. by 5 cm., 3 cm. from its anterior midline, 27 cm. above the heel.

Genital:

There is moderate amount of pubic hair, evenly distributed. The labia majora and minora are in coaptation. There is moderate amount of leucorrheal discharge. On separating the lips are revealed abrasions at perineum

and at both sides of the vulva. The hymen disclosed lacerations at 9 and 11 o'clock positions. The external vaginal orifice offers moderate resistance upon introduction of the examining index finger and the virgin-sized speculum. The cervix is normal in color and consistency, with an abraded area at its lower lip. The uterus is not enlarged.

MICROSCOPIC FINDINGS:

Vaginal smears are positive for spermatozoa and negative for gram-negative diplococci.

REMARKS:

Findings are compatible with recent sexual contact. [Records, pp. 23-24]

As stated by the Supreme Court, "(P)hysical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses, . . ." [People v. Sacabin, G.R. No. L-36638, June 28, 1974, 57 SCRA 707, 713].

Moreover the conduct of the complainant after the incident took place further strengthens her case. After the forcible abduction and the rape took place and her rescue that same night, she lost no time the following day to have herself examined at the Philippine Constabulary Central Laboratory Office at 8:30 in the morning, she went to the Criminal Investigation Service office at Camp Crame to give her testimony, and she filed her complaint before the fiscal's office. Compare this to the conduct of accused-appellants particularly Silvestre Sunpongco who jumped bail in the course of the trial and was not arrested until after six years.

It also behooves this Court to look into the possible motive Juanita Angeles could have had in filing the criminal complaint against accused-appellants had she not been wronged, considering her age, status, reputation and educational attainment, for on this point, accused-appellants argue that the complainant was merely threatened and forced by her brother, Dr. Jose Angeles, to file the complaint against them. Considering the evidence presented this Court finds the appellants' stance as implausible.

III. Anent the last error assigned by the accused-appellants, they would refute the testimony given by accused-turned state witness Benjamin Gabriel summarized by the trial court, as:

Sometime in the second week of October, 1964, between 8:00 and 9:00 P.M., he met the accused Silvestre Sunpongco, Herminigildo Sunpongco and Arsenio Calayag by previous appointment at the "glorietta" in Hagonoy, Bulacan, at which time Silvestre told them to wait for Juanita Angeles on her way to church the next day, a Sunday, and then take her by force, place her inside the car, and bring her to Tagaytay where Silvestre would rape her so that she would be his, because somebody from Pulilan was courting her. They waited for Juanita as planned, but she failed to appear. Saturday night of the succeeding week, they met again and agreed to consummate their plan to abduct Juanita Angeles the day after, also a Sunday, but again she did not appear. Silvestre Sunpongco told them to wait for another occasion. On October 20, 1964 they met again in the same place. This time, Silvestre told them that on Friday, October 23, 1964 Juanita Angeles would get rice from the RCA at Guiguinto, and they will wait for her at the crossing at Malolos to snatch her and take her to Tagaytay in order that he would rape her.

On October 23, 1964, between 7:00 and 9:00 A.M., they all met in front of the municipal building of Hagonoy, Bulacan, rode a car belonging to Nena Marucot, the sister of Silvestre Sunpongco, which was being driven by Arsenio Calayag, and proceeded to the appointed place at Malolos, where they stopped and waited for Juanita Angeles. After a while, they saw her coming in a jeep driven by Virgilio Gan. They followed the jeep and on reaching Tabang Bridge, they blocked its way and forced it to stop.

The rest of his story is a corroboration of those of the other prosecution witnesses, although he ended it by saying that once Juanita Angeles was placed inside a room at the Hilltop Hotel by Silvestre Sunpongco, the latter ordered this witness to stay on guard outside while he ordered Herminigildo Sunpongco and Arsenio

Calayag to return to Hagonoy; that at 5:00 P.M. he entered one of the rooms because he had fever, and that at about 9:00 P.M. a hotel boy woke him up and told him to tell Silvestre Sunpongco that somebody was looking for him. [Records, pp. 523-528].

The accused-appellants in denying the existence of conspiracy would question the discharge of Benjamin Gabriel to become a state witness. Particularly they aver that Benjamin Gabriel's testimony cannot be substantially corroborated in its material points.

An indicium of conspiracy is ". . . when the defendants by their acts aimed at the same object, one performing one part and another performing another part so as to complete it, with a view to the attainment of the same object, and their acts, though apparently independent were in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments, . . ." [People v. Geronimo, G.R. No. L-35700, October 15, 1973, 53 SCRA 246, 254]

This Court agrees with the prosecution's contention that coupled with the testimonies of Juanita Angeles and Benita Fabian, the following are sufficient corroboration of Benjamin Gabriel's testimony on conspiracy:

- (1) After the jeep where Juanita Angeles and Benita Fabian were riding and forced to stop by a car occupied by appellants, the appellants and Benjamin Gabriel all got off from said car and approached the jeep.
- (2) Herminigildo Sunpongco, Benjamin Gabriel and Silvestre Sunpongco boarded the jeep used by the complainant and Benita Fabian. Thereafter, Silvestre ordered the driver of the jeep to proceed to an old road.
- (3) Arsenio Calayag, in the meantime drove the car and followed the jeep that carried complainant and the other appellants.
- (4) Upon reaching an isolated place, Silvestre Sunpongco ordered the driver of the jeep to stop. The car also stopped. Whereupon, the appellants riding in the jeep alighted.
- (5) To force Juanita Angeles into the car, Silvestre Sunpongco pulled Juanita by the hand, Benjamin Gabriel pushed her at the back, while Arsenio Calayag positioned himself behind the wheel of the car, ready to drive the moment Juanita was successfully brought into it. As this was going on, Herminigildo Sunpongco was holding Benita to prevent her from giving the complainant a helping hand.
- (6) From the time the car finally drove off with Juanita Angeles, up to the time it reached Tagaytay City, appellants Herminigildo Sunpongco, Benjamin Gabriel, Silvestre Sunpongco and Arsenio Calayag were inside the vehicle. [Appellee's Brief, pp. 12-13]

The discharge of Benjamin Gabriel to become a state witness is likewise questioned by Herminigildo Sunpongco who avers that on the basis of the evidence presented by the prosecution it is he who appears to be the least guilty. On this point suffice it to state that, ". . . (A)ll that the law requires, in order to discharge an accused and to use him as a state witness is that the defendant whose exclusion is required does not appear to be the most guilty, not necessarily that he is the least guilty, . . ." [People v. Court of Appeals, G.R. No. 55533, July 31, 1984, 131 SCRA 107, 112]

Considering the testimonies and evidence presented this Court is of the belief that the trial court did not err in convicting herein appellants of the crime charged.

However, the penalty imposed by the trial court is erroneously designated "life imprisonment." The correct term is reclusion perpetua [People v. Abletes, G.R. No. L-33304, July 31, 1974, 58 SCRA 241, 248].

WHEREFORE, the decision of the Court of First Instance of Bulacan is hereby **AFFIRMED** with the modification that the indemnity awarded by the trial court is raised to P30,000.00.

SO ORDERED.

Fernan, Feliciano, and Bidin, JJ., concur.

Gutierrez, Jr., J., on leave. No part. Filed a Manifestation and Motion for the prosecution in his capacity as Acting Solicitor General.

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