

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NANDING R. PAREL AND JOEY ESCANILLA, ACCUSED,

Ponente: BALTAZAR-PADILLA, J.

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### BALTAZAR-PADILLA, J.:

This is an appeal[1] interposed by accused Joey Escanilla from the Judgment[2] rendered by the Regional Trial Court, Branch 14, Laoag City dated July 26, 2012 in Criminal Case No. 14763-14 convicting accused-appellant of Simple Theft, the decretal portion of which reads:

“WHEREFORE, the accused Joey Escanilla is found GUILTY beyond reasonable doubt of the crime of SIMPLE THEFT and is hereby sentenced to an indeterminate penalty ranging from THREE YEARS of prision correccional as minimum to SEVEN YEARS, FOUR MONTHS AND ONE DAY of prision mayor as maximum. Let the stolen tint recovered from the said accused be returned to private complainant. Costs against said accused.

SO ORDERED.”

The antecedent facts of the case as borne-out by the records are as follows:

Accused-appellant Joey E. Escanilla and Nanding R. Parel were charged of Qualified Theft in an Information[3] which reads as follows:

“That on or about the 20[th] day of May 2011 in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another taking advantage of the fact that Nanding Parel is a stay-in helper of Banawe Ceres Car Accessories and General Merchandise, an entity involved in the selling of car accessories and enjoying the trust and confidence of his employer Randy Acosta, with grave abuse of confidence, and without the knowledge and consent of said owner or his duly authorized representative, with intent to gain, did then and there willfully, unlawfully and feloniously take, steal and carry away with the complicity and participation of Joey E. Escanilla, three rolls of 3M brand black chrome tint worth PHP13, 000.00, to the damage and prejudice of the same Randy Acosta.

CONTARY TO LAW.”

When arraigned with the assistance of counsel, both accused pleaded “not guilty” to the offense charged against them. Subsequently, accused Nanding Parel, with the consent of the public prosecutor and the private complainant, pleaded guilty to the lesser offense of simple theft under Article 309(3) of the Revised Penal Code and was sentenced to an indeterminate penalty ranging from six months of arresto mayor as minimum to two years and six months of prision correccional as maximum.

Thereafter, trial on the merits ensued against accused Joey Escanilla.

The prosecution presented as witnesses private complainant Randy Acosta and Israel Acidera. The defense, on the other hand, presented accused Joey Escanilla and Julius Nagun. As rebuttal witnesses, the prosecution presented SPO1 Ferdinand Santos and Velmarie Acidera.

The prosecution sought to prove that on May 20, 2011 at around 2:35 p.m., Joey Escanilla conspired with his co-accused Nanding Parel in stealing three rolls of car tint worth P13,000.00 from Banawe Ceres Car Accessories and General Merchandise (Banawe Ceres, for brevity) owned by private complainant Randy Acosta.

According to Israel Acidera, he was inside the store beside his wife, Velmarie Acidera, when his co-worker Nanding Parel took three rolls of 3M car tint and handed them to accused-appellant Joey Escanilla. Thereafter, Escanilla flagged down a tricycle and boarded it. Acidera wasted no time and reported the incident to the owner, Randy Acosta, who at that time was at the back of the store. Randy Acosta immediately held Nanding Parel and called the police. After the police arrived, he (Israel Acidera) went with them to look for the tricycle carrying Joey Escanilla. He sighted the tricycle carrying Escanilla and the policemen overtook and stopped the tricycle. They arrested Escanilla and recovered from him three rolls of car tint.

Private complainant Randy Acosta, for his part, testified that his employees were authorized to sell merchandise to the public only upon his permission. However, no sale took place between his employee and accused-appellant Escanilla. No receipt was also issued to the latter and this was confirmed by Israel Acidera, who asserted that neither he nor his wife issued a receipt to Joey Escanilla.

In refutation of the prosecution's allegations, accused-appellant testified that he is the owner of a car accessory shop at San Nicolas, Ilocos Norte. On May 20, 2011, at around 1:00 p.m., a van driver came to his shop asking for 3M car tints. Although he told the van driver that he had none, the latter insisted that he could get one at Banawe Ceres in Laoag City. Accused-appellant told the driver to get the tint himself at Banawe Ceres, but the van driver insisted that Escanilla should get them instead. He first inquired from a certain Mang Robert of Gold Park if they had said car tints, but the answer was in the negative. Thereafter, he called Nanding Parel of Banawe Ceres and was told that they had the car tints he needed. They negotiated on the price and agreed that the car tints would cost P5,000.00.

He proceeded to Banawe Ceres to purchase the car tints. When he arrived thereat, Nanding Parel, Israel Acidera and the latter's wife were inside the store while a certain Santino was outside. He approached Nanding Parel and asked for the car tints. He also asked Nanding Parel to cut the tints for him but the latter told him that these were already cut. Nanding Parel told him to get the car tints on top of the cabinet. He told Parel that he would pay first for the commodities. Thus, he approached the pregnant woman at the cashier's table, paid her P5,000.00 and asked for a receipt. The pregnant woman wrote on the receipt but since her hands were shaking, she called her husband to write on the receipt. The latter handed him the receipt which he placed inside his pocket. He took the car tints on top of the cabinet and went out of the store. Thereafter, he flagged down a tricycle and asked the driver to take him in front of the San Nicolas church.

At Brgy. Nangalisan, Laoag City, policemen stopped the tricycle he was riding. With them was private complainant Randy Acosta. The policemen took from him the car tints he purchased. He was brought back to Banawe Ceres on board the police car and Nanding Parel was apprehended there. He and Nanding Parel were then taken to the police station. Upon order of Police Officer Santos, he brought out the receipt issued him by Banawe Ceres, a cutter blade and P3,000.00. These items were taken from him and were never returned.

Julius Nagun, the tricycle driver who carried accused-appellant from Banawe Ceres, corroborated accused-appellant's testimony that private complainant Acosta was with the policemen when they stopped his tricycle at Brgy. Nangalisan, Laoag City.

In rebuttal, prosecution witness SPO1 Ferdinand Santos testified that he and the other policemen did not confiscate any receipt from accused-appellant when they arrested him. He also averred that they did not get a single centavo from him.

Velmarie Acidera, on the other hand, testified that she is the wife of Israel Acidera. At the time of the incident complained of, she was pregnant. She was authorized by Acosta to issue receipts if the latter is not around. She asserted that on May 20, 2011, she did not issue any receipt in the amount of P5,000.00. The booklet of receipts covering the transactions of Banawe Ceres shows that only three receipts were issued on May 20, 2011, none of which was for P5,000.00.

Dissatisfied with the trial court's decision, accused-appellant interposed an appeal to this Court, basically imputing errors in the trial court's factual findings, to wit:

“1.

THE HONORABLE TRIAL COURT ERRED IN NOT HOLDING THAT THE TESTIMONIES OF THE PROSECUTION WITNESSES ARE LEGALLY INSUFFICIENT TO CONVICT THE ACCUSED, IN VIEW OF THE INHERENT FATAL WEAKNESSES PERMEATING SUCH TESTIMONIES.

2.

THE HONORABLE TRIAL COURT ERRED IN DENYING THE ACCUSED HIS RIGHT TO PRESUMPTION OF INNOCENCE.

3.

THE HONORABLE TRIAL COURT ERRED IN RENDERING ITS DECISION AND JUDGMENT OF CONVICTION.”[4]

After a careful review of the evidence on record, WE find that the appeal deserves no merit.

In his brief accused-appellant raises as primary issue the credibility of witnesses upon which the resolution of all the other issues depends.

Accused-appellant claims that the totality of the prosecution's evidence does not amount to proof beyond reasonable doubt that would warrant his conviction. The glaring inconsistencies in the testimonies of private complainant Randy Acosta, Israel Acidera and SPO1 Ferdinand Santos unmistakably create a reasonable doubt that entitles him to an acquittal.

He claims that he purchased the three rolls of 3M car tint from Banawe Ceres for P5,000.00 and a corresponding receipt was issued to him by Velmarie Acidera. However, the said receipt was confiscated by the arresting officers and was never returned to him.

WE are not persuaded.

WE see no misappreciation of facts on the part of the court a quo.

The records reveal that the prosecution's witnesses Israel Acidera and Velmarie Acidera positively, consistently and categorically declared that accused-appellant took three rolls of 3M car tint without paying them.

In his testimony in court, Israel stated that:

“Q

Will you tell the Court if you can recall where were you on May 20, 2011 at 2:30 in the afternoon?

A

I was at my working place, sir.

Q

What is the name of your working place?

A

Banawe Ceres Car Accessories, sir.

Q

What were you doing at that time at Banawe Ceres Car Accessories?

A

I was inside the store, sir.

Q

Did you notice any untoward incident that transpired when you were inside the store at Banawe Ceres Car Accessories?

A

There was, sir.

Q

Will you tell the Court what was that unusual incident that transpired?

A

I saw my co-worker Nanding Parel stole three rolls of 3M brand black chrome and handed it to Joey Escanilla, sir.

Court:

Place on record the word nangitakas.

Q

When you witnessed that incident, what did you do if any?

A

I went [at the] back of the store and told my cousin Randy Acosta what I had witnessed, sir.

Q

Did you actually tell Randy Acosta what transpired?

A

Yes, sir.

Q

What did Randy Acosta do if any after you told him what transpired, Mr. Witness?

A

We immediately went in front of the store and my cousin Randy Acosta held Nanding Parel and he called the police, sir.

Q

What about you, what did you do?

A

I was beside my boss who is my cousin, sir.

Q

Did the police arrive?

A

Not long thereafter my cousin called the police and they arrived, sir.

Q

What happened after the police arrived?

A

I accompanied the police for the tricycle number SN 249 where Joey rode, sir.

Q

Did you actually locate the tricycle?

A

While we were at Brgy.51, Nangalisan I saw the tricycle where Joey rode and I pointed to the police the tricycle, sir.

Q

What happened after that?

A

We overtook the tricycle and flag(sic) it down, sir.

Q

What happened after you overtook and flag(sic) it down?

A

I saw the passenger and he is Joey the person whom Nanding Parel held(sic) with the 3 rolls of 3M brand black chrome, sir.

Q

What did the policemen do?

A

They arrested him, sir.

Q

Where were the tints when they arrested Joey Escanilla?

A

It was in the possession of Joey, sir.

XXXXX

ON CROSS EXAMINATION

XXXXX

Q

Mr. Witness, where were you when you allegedly saw Nanding Parel gave those tints to the accused Joey Escanilla?

A

I was inside the store, sir.

Q

Which part of the store, Mr. Witness?

A

Near the cashier, sir.

Q

During that time you were beside your wife who is also an employee of that establishment, am I right?

A

Yes, sir.

Q

Your wife was pregnant during that time?

Fiscal Atinaja:

We object, Your Honor.

Court:

Sustain.

Q Mr. witness, you were beside Nanding Parel when Nanding Parel gave said tints to Joey Escanilla?

Fiscal Atinaja:

We object, Your Honor. Misleading. He answered awhile ago he was beside his wife

Court:

Reform.

Q Mr. Witness, Nanding Parel gave the tint to the accused in front of the cashier table am I right?

A Just inside the store it is far from the cashier's table, sir.

XXXXX

Q How far were you when Nanding Parel gave the tint to the accused Joey Escanilla?

A About 5 to 10 meters away, sir.

XXXXX

Q

On May 20, 2011 at around 2:30 in the afternoon your wife was about to issue a receipt in favor of Joey Escanilla am I right?

A No, sir.

XXXXX

Q Mr. witness, you issued receipt in relation to the tint that was taken by the accused, am I right?

Fiscal Atinaja:

To whom, Your Honor?

Atty Perrera:

To the accused, Your Honor, Joey Escanilla?

A No, sir.”[5]

In his attempt to escape liability, accused-appellant insists that he was issued a receipt by Velmarie Acidera but he failed to present the said receipt claiming that it was confiscated by the police officers who arrested him. Contrary to his claim, however, no receipt was issued him by Banawe Ceres for the three rolls of 3M car tint which he took. To establish the same, the prosecution presented in court Banawe Ceres' booklet of receipts showing that on the day of the incident or on May 20, 2011, only three (3) receipts were issued by Velmarie Acidera and none was issued in the name of accused-appellant for the alleged purchase of three rolls of 3M car tint. Thus –

“Q

When Joey Escanilla came to this Court and testified, he testified that a pregnant lady issued him a receipt in the amount of Php5,000.00 for a(sic) rolls of tint which he purchased at Banawe Ceres, what can you say about that madam witness?

A

That is not true, sir.

Q

Why do you say that that is not true?

A

Because I did not issue him a receipt, sir.

Q

Aside from the fact that you did not issue a receipt, why do you say that it is not you?

A

Because no receipt was issued to him, there is no such receipt that I issued, sir.

Q

You mentioned a receipt, will you bring out that receipt, madam witness?

Interpreter –

Witness brought out a receipt and handed to the public prosecutor.

xxxxx

CROSS-EXAMINATION BY  
ATTY. JASON PERERA:

xxxxx

Q Aside from you and Mr. Acidera, madam witness, are there other employees of Banawe Ceres, if any?

A There are many, sir.

xxxxx

Court –

Q

Among the employees of(sic) that you named, madam witness, who are those authorized to issue receipt?

A

None of them, your Honor, but sometimes I was(sic) authorized to issue receipt if our Boss is not around.

Q

Madam witness, in these receipts that you handed to us, there are different signatures in the receipt, whose signature is this?

A

That is my signature, sir.

Court –

Atty. Perera please make it of record what the witness had identified?

Atty. Perera –

You Honor, the witness identified OR No. 4597 dated May 21, 2011, your Honor.

Q

How about this signature, madam witness, whose signature is that?

A

That is my signature, sir.

Q

Your Honor, may we also manifest that the witness also identified a receipt dated May 20, 2011 which is receipt No. 4596, you have only one signature, madam witness in relation to the issuing of receipts, am I right?

A

I am not using only one kind of signature, sir.

Court –

Q

What do you mean you are not using the same signature?

A

Sometimes I used(sic) different signature, your Honor.

Atty. Perera –

Q

Madam witness, on this another receipt dated May 20, 2011 with OR No. 4594, this is your signature?

A

No, sir.

Q Whose signature is that

A Ate, sir.

Court –

Q Whose ate?

A Mayrose Duran, your Honor. (Witness pointing to a woman holding a baby.)

xxxxx

Atty. Perera –

Q

Is it not a fact that the boss is Randy Acosta as printed in the Banawe Ceres Car Accessories official receipt?

A

Yes, sir.

Q

Why, is it only your boss and you authorized(sic) to affix signature in relation to the issuance of receipt, am I right?

A

Even madam, sir.

Court –

Q Who is madam?

A Mayrose Duran, you Honor.

Q Why do you call her madam?

A She's the wife of our boss Randy Acosta, sir.

xxxxx

Q Okey, madam witness, in this OR dated May 18, 2011 with OR No. 4591, whose signature is this again?

A That is the signature of madam, sir

Q How about this OR No. 4592 dated May 19, 2011, whose signature is this?

A That is my signature, sir.

Q Who made this entry found under the column particulars?

A Me, sir.

Q In this OR No. 4597 dated May 21, 2011, this is your signature, am I right?

A Yes, sir.

XXXXX

Court –

But the prosecution now rebutting that testimony by presenting a booklet of receipts from Banawe Ceres and that such three receipts for that day has(sic) been issued and the three receipts issued on that day pertain only to transactions worth Php300.00, Php400.00 and Php250.00 but not for Php5,000.00 as testified to by the accused?

XXXXX

Atty. Perera –

Yes, your Honor.

Atty. Perera –

Q

Madam witness, you testified a while back that on May 20, 2011 that you issued OR No. 4594, am I right, madam witness?

A

Yes, sir.

Q

When you issued this receipt, you were in control of whatever entries that you would be writing in relation to this official receipt, am I right, madam witness?

Pros. Atinaja –

If what the counsel is asking, if it was the witness who made the entries, that is admitted fact, because they were the ones who made the entries and not the buyer, admitted facts, all the entries in the column articles or description are entered into by the boss, madam, your Honor.

Q

Madam witness, in issuing receipt, how many copies are there, for example in this official receipt No. 4594 dated May 20, 2011, there is also a customer's copy, am I right?

A

Yes, sir.

Q

And when you would be issuing the customers/clients copy of the official receipt, you will only be writing on the face of the customer's copy, am I right?

A

There is a carbon paper, sir.

Q

Madam witness, in issuing official receipt, you only write on the face of the customer's copy, am I right?

A

Yes, sir, I would write on the face of the customer's copy but there is a carbon, sir.

Q

Where there instances that whenever you would be making entries on the customer's copy, there were times that carbon copy was not attached below the customer's copy, am I right?

A

None, sir, we always place carbon copy so that the customer could see it, sir.”[6]

Accused-appellant's contention that the receipt was taken by the police officers and was never returned to him was further rebutted by SPO1 Ferdinand Santos who attested in court that no receipt was actually taken from accused-appellant by the arresting police officers.[7]

Accused-appellant further contends that with the inconsistencies and improbabilities in the testimonies of private complainant Acosta and SPO1 Santos, the prosecution failed to establish his guilt beyond reasonable doubt. As per Acosta's account of the incident, it was Israel Acidera who told him that no payment was made by accused-appellant when he purchased the car tints from Banawe Ceres while SPO1 Santos stated that it was Acosta who caught his helper stole and passed the stolen items to accused-appellant.

Apparently, none of the inconsistencies or absurdities identified by accused-appellant in the testimonies of the prosecution witnesses is of any consequence. Such inconsistencies are merely trivial, minor and immaterial. They refer only to irrelevant and collateral matters, which have nothing to do with the elements of the crime.

In *Luis Marcos P. Laurel vs. Hon. Zeus C. Abrogar and PLDT*,<sup>[8]</sup> the Supreme Court explained that theft is consummated when the offender unlawfully acquires possession of personal property even if for a short time; or if such property is under the dominion and control of the thief. The taker, at some particular amount, must have obtained complete and absolute possession and control of the property adverse to the rights of the owner or the lawful possessor thereof. It is not necessary that the property be actually carried away out of the physical possession of the lawful possessor or that he should have made his escape with it.

In the extant case, the prosecution was able to establish that accused-appellant took the three rolls of car tint without the consent of the owner and without paying for them. Apparently, the alleged inconsistencies being asserted by accused-appellant do not negate the fact that he succeeded in taking the three rolls of car tint without paying them. It has been established that where the inconsistency is not an essential element of the crime, such inconsistency is insignificant and cannot have any bearing on the essential fact testified to.<sup>[9]</sup>

It is also an oft-repeated doctrine that minor inconsistencies in the testimonies of prosecution witnesses serve to strengthen, rather than weaken, their narration.<sup>[10]</sup> Even the most candid witnesses often times make mistakes and would fall into confused statements, and at times, far from eroding the effectiveness of the evidence, such lapses could instead constitute signs of veracity. In fact, a witness whose testimony is perfect in all aspects, without a flaw and remembering even the minutest details which jibe beautifully with one another, lays himself open to suspicion of having been coached or having memorized statements earlier rehearsed. Moreover, the credibility of a witness is not affected by inconsistencies or improbabilities in his testimony if it does not appear that he willfully perverted the truth as may be gleaned from the tenor of his testimony and found by the trial judge from his demeanor and behavior on the witness stand.<sup>[11]</sup>

Accused-appellant likewise assails Israel Acidera's credibility because he is the cousin of Acosta and is residing in the latter's house and dependent on the latter for support. He avers that it is incredible for Acidera not to immediately apprehend him or call his attention for leaving Banawe Ceres without first paying the car tints he took. Acidera's silence only proved that they (Acidera and Acosta) orchestrated the whole incident to implicate him in the offense of theft because he is a business competitor of Banawe Ceres.

WE are not convinced.

Accused-appellant's attack against Acidera's credibility for being a cousin of the private complainant is misplaced. Acidera was not shown to have any ill motive in testifying against accused-appellant. The ill motive ascribed by accused-appellant to Acosta and Acidera was not substantiated. As to the other prosecution witnesses, he could not impute any ill motive why they would falsely accuse him of theft. The fact alone that he is a business competitor of Banawe Ceres is not sufficient to conclude that the charge against him was trumped-up. Without any independent evidence establishing ill motive, such a conclusion can be easily said to be a product of mere guess, surmise or speculation. Where there is no evidence to show that the principal witnesses for the State were actuated by ill-motive, their testimonies are entitled to full faith and credit.<sup>[12]</sup>

It bears stressing that the trial court's evaluation of the testimonies of witnesses is given great respect by the appellate court in the absence of proof that it was arrived at capriciously or that the trial court disregarded material facts which might affect the outcome of the case. The rationale behind this rule is that the credibility of a witness can best be determined by the trial court since it has the opportunity to observe the candor and demeanor of the witnesses.<sup>[13]</sup>

In fine, other than accused-appellant's bare and self-serving allegations in denying the offense charged against him, he has not shown any scintilla of evidence that he indeed paid for the three rolls of car tint. As the defense of denial is inherently weak for being negative and self-serving, and accused-appellant failed to substantiate the same, the positive and categorical declarations of the prosecution witnesses must prevail.[14]

On the trial court's finding that accused-appellant is guilty only of simple theft and not qualified theft, WE find the same to be in order.

The elements of the crime of theft as provided for in Article 308 of the Revised Penal Code are: (1) that there be taking of personal property; (2) that said property belongs to another; (3) that the taking be done with intent to gain; (4) that the taking be done without the consent of the owner; and (5) that the taking be accomplished without the use of violence against or intimidation of persons or force upon things.[15]

Theft is qualified when it is, among others, committed by a domestic servant or with grave abuse of confidence.[16]

In the extant case, the prosecution was able to establish that there was "taking" of personal property without the consent of the owner. It was accomplished without the use of violence or intimidation against person or force upon things while intent of gain is presumed from the proven unlawful taking of the car tints.[17] However, the element that the theft must have been committed by a domestic servant or with grave abuse of confidence, is utterly lacking.

As aptly explained by the trial court in its assailed Decision, viz–

“A careful scrutiny of the evidence presented precludes a finding that Nanding Parel is a domestic servant, or that he acted with grave abuse of confidence when he took the tint. Although Nanding Parel lives in the house of his employer Randy Acosta, he works at Banawe Ceres as installer of car tint. Clearly, his employment makes him an employee of the business establishment and not a domestic servant of Randy Acosta.

On the other hand, the element of grave abuse of confidence in cases of qualified theft requires “a relation of confidence, guardianship and vigilance” between Nanding Parel and his employer Randy Acosta; Nanding Parel's employment by itself cannot suffice to create the relation of confidence and intimacy required by law.

In this case, it is true that Nanding Parel is a stay-in employee of Banawe Ceres. Nonetheless, Randy Acosta testified that Nanding Parel could sell merchandise to the public only with his (Randy Acosta's) prior permission. In fact, Israel Acidera even claimed that Nanding Parel was not authorized to sell goods to the public. Moreover, Velmarie Acidera averred that the employee of Banawe Ceres including Nanding Parel were not authorized to issue receipts. These circumstances illustrate the level of confidence reposed by Randy Acosta on Nanding Parel. The limited extent of their fiduciary relationship allows only for an abuse of confidence, not a grave abuse of confidence. For this reason, accused Joey Escanilla may be held liable only of simple theft and not qualified theft. As held in *Astudillo v. People*, “[m]ere breach of trust is not enough. Where the relationship did not involve strict confidence, whose violation did not involve grave abuse thereof, the offense committed is only simple theft.”

Ergo, accused-appellant is only liable for simple theft.

With respect to the penalty, the trial court imposed the indeterminate penalty of three years of prision correccional as minimum to seven years, four months and one day of prision mayor as maximum for simple theft. WE sustain the same for being appropriate.

WHEREFORE, premises considered, the appealed Decision is hereby **AFFIRMED**.

The extant appeal is **DISMISSED**.

**SO ORDERED.**

Abdulwahid, H.S., Chairperson, and Inting, S. B., JJ., concur.

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[1] Record, p. 154.

[2] Ibid, pp.143-152.

[3] Ibid, p. 1.

[4] Rollo, p. 43.

[5] TSN dated November 23, 2011, pp. 3-14.

[6] See TSN dated May 3, 2012, pp. 5-17

[7] See Tsn dated April 17, 2012, p. 4.

[8] G.R. NO. 155076, February 27, 2006.

[9] People vs Lorie Villahermosa, G.R. No. 186465, June 01, 2011.

[10] People vs Dione Palomar, G.R. No. 108183-85, August 21, 1997.

[11] People vs. Andres Ortiz, G.R. No. 133814, July 17, 2001.

[12] People vs. Welvin Diu and Dennis Dayaon, G.R. No. 201449, April 03, 2013.

[13] People vs. Paul Tagana, et al., G.R. No. 133027, March 04, 2004 citing People vs. Alfonso Balgos, G.R. No. 126115, January 26, 2000.

[14] Lorbe Rebucan vs. People, G.R. NO. 164545, November 20, 2006.

[15] Rosario V. Astudillo vs. People, G.R. NO. 159734, November 30, 2006.

[16] Ibid. See also People vs. Bernardo B. Mirto, G.R. No. 193479, October 19, 2011.

[17] Benjamin Beltran, Jr. and Virgilio Beltran vs. People, G.R. No. 181355, March 30, 2011; People vs. Luisito D. Bustinera, G. R. No. 148233, June 08, 2004.

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