

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MICHELLE BERINGA AND JOSEPHINE CORITANA, ACCUSED,

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

Before us on appeal is the Decision dated 18 April 2012 of the Regional Trial Court of Quezon City, Branch 96, in Criminal Case No. Q-09-157721, finding accused Michelle Beringa ("appellant") guilty beyond reasonable doubt of homicide. The dispositive portion of the Decision, reads:

"WHEREFORE, in view of the foregoing, accused MICHELLE BERINGA is hereby found GUILTY of the crime of Homicide and hereby sentenced to suffer the penalty of imprisonment of 14 years, 8 months and 1 day to 17 years and 4 months of Reclusion Temporal in its medium period, and to pay the heirs of [the victim] moral damages in the amount of Php50,000.00; civil liability ex delicto in the amount of Php50,000.00 and actual damages in the amount of Php300,000.00.

As to the case of accused Josephine Coritana for the same crime, sent the same to the Archives of this Court pending her arrest. Correspondingly, issue a second Alias Warrant of Arrest against the said accused.

SO ORDERED."

THE INDICTMENT

For the death of Atty. Emilio N. Venegas, an Information was filed on 17 March 2009 by Assistant City Prosecutor Vesta Victoria Giner-Villamor, charging appellant and Josephine Coritana ("Josephine") with the crime of murder, allegedly committed as follows:

"That on or about the 12[th] day of September 2008, in Quezon City, Philippines, the said accused, conspiring, confederating with other person whose true name and identity and whereabouts have not as yet been ascertained and mutually helping each other, did then and there willfully, unlawfully, and feloniously with intent to kill, and with the qualifying aggravating circumstance of evident premeditation, and taking advantage of superior strength, assault, attack and employ personal violence upon the person of one ATTY. EMILIO N. VENEGAS, 88 years old, by strangulating him with an extension cord around his neck inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of ATTY. EMILIO N. VENEGAS.

Accused planned the commission of the crime prior to its execution until its commission, consciously adopting the means and methods of execution done suddenly and unexpectedly and taking advantage of their superior number and strength to ensure that the victim will not be able to defend himself, thus, accused committed the attending circumstances of evident premeditation, treachery and abuse of superior strength."[1]

On arraignment, appellant, assisted by counsel de oficio, pleaded not guilty to the charge.[2] As to Josephine, who remains at large, the case was sent to the archives.[3]

In the ensuing trial, the prosecution presented as witnesses the following: (1) Manuel Venegas ("MANUEL"), son of the victim; (2) Nina L. Garcia ("NINA"), secretary of the victim; (3) P/Insp. Joseph Carlos Moises Madrid

("P/INSP. MADRID"), the investigating officer; and (4) Dean C. Cabrera ("DR. CABRERA"), the Medico-Legal Officer.

Appellant was the sole witness for the defense.

The Facts

Version of the Prosecution

The first to testify was Manuel Venegas, the son of the victim. Manuel stated that on September 12, 2009, at around 9 o'clock in the evening, he, his wife Monet Venegas and their three sons arrived at their home at No. 23, Mindanao Ave. Quezon City.[4] He blew his vehicle's horn to signal their maids Josephine Coritana and appellant Michelle Beringa[5] to open the gate, but no one came out to do so.[6] The witness told his eldest son to get off the vehicle and open the gate himself.[7] Then, Manuel drove the vehicle to the garage, after which his wife and children got off and entered the house.[8] While Manuel was closing the gate, he heard his wife and children screaming, so he ran into the house and was told that his father, Atty. Emilio N. Venegas, was lying down lifeless at his office in the basement.[9] Manuel hurried to the basement and there saw his father lying with blood at the back of his head and a wire around his neck.[10] He tried to remove the wire in case his father was still alive and then told his wife to call the police.[11]

The family started to look around the house for the maids, who were no longer around together with their personal belongings.[12] There was no sign of forced entry in the house.[13] Manuel recalled that when they left the house that day, the maids were doing their usual chores while his father was exercising in the garage.[14] He told the investigating police officer that two days prior to the incident, his father "got mad" at the maids, and that the maids allegedly told "Mrs. Garcia," their secretary, that if the old man got mad again, "they (would) retaliate." [15] Thereafter, the police performed forensic and autopsy on the crime scene and on the body of the victim.[16]

On cross-examination, Manuel stated that he did not investigate right after the incident whether there were other possible suspects to the case; instead, when she was arrested, appellant Beringa told the police that she was with her boyfriend Rommel Pabuaya during the incident and that it was her boyfriend who strangled the victim.[17]

The next witness who testified was P/Insp. Joseph Carlos M. Madrid, who presented the police investigation report on the crime.[18] He stated that he arrived at the crime scene and talked to Manuel Venegas, as well as started looking around the house for signs of forced entry,[19] but saw no signs of forced entry which meant that the assailant has a connection or known to the victim.[20]

Then, witness Nina Garcia also testified for the prosecution. The witness stated that she was the secretary of the victim, Atty. Emilio Venegas;[21] that her office was the residence of the victim, at 23 Mindanao Ave. Quezon City;[22] that she knew and could identify the appellant Beringa;[23] that after the killing of the victim, the appellant could no longer be found at the office and residence;[24] that after the incident of September 12, 2008, the witness received in March or April 2009 a text message from appellant who wanted to come to Manila to work as her maid but at the same time asked for money for transportation to do so;[25] that the appellant was then at Cadiz, Negros Occidental;[26] that the witness gave the address to Manuel Venegas;[27] that after a week, she was informed by Manuel that appellant Beringa had been apprehended and was incarcerated at the CIDG Office in Sikatuna, Quezon City;[28] that she and Manuel went to the CIDG office, where she asked Beringa why she killed Atty. Venegas;[29] and that Beringa denied killing Atty. Venegas but pointed to her boyfriend Rommel Pabuaya as the killer.[30]

On the court's questioning, Garcia stated that she was used to seeing the accused-appellant serving the Venegas

family as their maid, as Garcia was in the residence to work every Monday, Wednesday and Friday.[31] On cross-examination, Garcia admitted "playing with" appellant when the latter texted her about working as maid, in order to obtain the latter's address (and help apprehend her).[32] She added that she supposed that appellant sent her a text message because the latter needed money, having recently given birth to a child.[33]

Version of the Defense

For her defense, accused-appellant Michelle Beringa testified that she had worked as the former housemaid of Atty. Emilio Venegas, having been recommended by her sister-in-law, who was also a housemaid of the said employer.[34] There were two housemaids at the time and her specific task was cooking.[35] She started her employment in May 2008 and left it on September 12, 2008, at around 7 o'clock in the evening.[36] She left because "she went with a man," who brought her to the latter's house in "Bagong Silangan." [37] The man was her boyfriend Rommel Pabuaya.[38]

On September 12, 2008, at around 7 o'clock, appellant said that she was with her companion Josephine Coritana at the house while Atty. Venegas was in his office.[39] Then, appellant heard Atty. Venegas shouting "Josephine, Josephine help me!" [40] At that time, appellant was in the kitchen preparing food.[41] She went to the office to assist Atty. Venegas, but the door was locked.[42] She could not do anything as Josephine had left with her bag.[43] Then, she went around the house.[44]

The last time appellant talked to Atty. Venegas was at around 5 o'clock p.m. of that day[45] when she was ordered by the latter to buy prunes at SM.[46] Atty. Venegas then went upstairs to change clothes.[47] The appellant went to SM, but was unable to buy prunes because they were out of stock.[48] She returned to the house at 5:30 p.m.,[49] and told Atty. Venegas about it.[50] She again left at 7 p.m., as she was being dragged out of the house by Rommel Pabuaya, who did not tell her the reason for it.[51] She told him that she needed to ask for permission to leave, but was told by Rommel to just go with him.[52] She then took her bag of clothes which have been kept packed that way since she got employed.[53] When Rommel came to drag her out of the house, Rommel was coming out of the office.[54] She was scared as Rommel appeared angry with her.[55] Rommel is unknown personally to her employer.[56] She and Rommel then boarded a taxi[57] and went to Bagong Silangan where she stayed for four months until she was brought to Cadiz City, Negros, on January 13, 2009.[58] During the four months at Bagong Silangan, she was never allowed to go out of the house nor to use a cellphone.[59] She was always frightened.[60] She learned of her employer's death for the first time in April 2009, when she was called by Nina, the secretary of her employer.[61]

On cross-examination, appellant stated that the sister-in-law who recommended her for employment is one Mylene[62] who was replaced as housemaid in July 2008 by her co-accused Josephine Coritana.[63] The other employee of Atty. Venegas was Nina Garcia, the secretary.[64] The other members of the household are the son of Atty. Venegas, Manuel Venegas and the latter's wife and children.[65] On the night of September 12, 2008, at around 7:00 p.m., only four people were in the house – Atty. Venegas, the appellant, Josephine and Rommel.[66] Rommel came there at 2:00 p.m. to visit her and bring her food.[67] It was Rommel's first time to visit her in that house.[68]

By the time appellant and Rommel left at 7:00 p.m., Josephine had left ahead of them.[69] When she heard Atty. Venegas shouting and she could not open the door to the latter's office, appellant went around the house to try to help the latter.[70] At that time, she did not know the reasons why Atty. Venegas was shouting.[71] She also did not see Rommel Pabuaya.[72] When she and Rommel were leaving, appellant did not see Atty. Venegas.[73] Appellant also recalled that earlier, when she left for SM to buy prunes, Josephine was in the house ironing clothes, while Rommel was inside the yard near the gate of the house.[74] Then, when appellant, came back and

started to cook, Josephine was still ironing clothes while talking to Rommel inside the house.[75] She does not know who let Rommel enter the house.[76]

When Atty. Venegas was shouting and she found out that the door to his office was locked, appellant went around the house.[77] However, after going around the house twice, she came across Rommel who grabbed her.[78] Meanwhile, Josephine left the room where she was ironing clothes and left the house while Atty. Venegas was shouting.[79] Although the door to the office was already opened at this time, she no longer tried to get in and see what happened because Rommel was "already holding" her.[80] She was dragged and brought to the gate at once.[81] She did not have to pick up her bag of clothes as it was Rommel who was already carrying the same.[82]

Then, appellant learned that she was at Bagong Silangan when she asked Rommel's companion.[83] For the four months that she was there, Rommel was with her "every minute and second of the day and night." [84] Their other companions were a husband and wife who were the other members of the household, but whose names she could not recall.[85] She asked Rommel why he dragged her out of the house but the latter merely got angry.[86] When she was brought to Cadiz, Negros, she was also "detained" and it was the relatives of Rommel who watched her day and night whenever Rommel was out to work.[87] These relatives include Marites Pabuaya, who is Rommel's sister and the other one, who is his aunt.[88] They told her not to leave, and when she tried to, they forced her to stay.[89] She had her cellphone but it was given by Rommel to his older brother,[90] and has not used any cellphone since.[91] She was not the one who contacted Nina Garcia.[92] Once she was arrested, she did not file a case of illegal detention against Rommel and his relatives in Cadiz, Negros, because Rommel's mother, who visited her daily, threatened her.[93] She was detained in Cadiz for one week.[94] Once in Quezon City, she thought of filing such a criminal case, but has not done it yet.[95] The last time she saw Rommel was when she was arrested.[96]

THE RTC DECISION

In a Decision dated 18 April 2012, the RTC convicted accused-appellant Michelle Beringa of the crime of homicide, having found that the qualifying circumstances for murder have not been proven. However, the court found reason to convict appellant of the crime of homicide on the basis of the following circumstantial evidence:

1") [appellant] and [Josephine] were left alone with the victim in the morning of September 12, 2008 (TSN dated February 8, 2010, pages 19-20); 2) Atty. Venegas was still alive then; [3]) sometime before aforesaid date Atty. Venegas scolded both [appellant] and [Josephine]; [4]) that [Josephine] and [appellant] resented being scolded (TSN dated February 8, 2010, pages 24-25); [5]) in the evening of September 12, 2008, Atty. Venegas was found dead in his office and [appellant and Josephine] left the house of the victim and could no longer be found. (TSN dated February 20, 2010, pages 17 and 19)"[97]

The Issue

Whether the circumstantial evidence presented by the prosecution established beyond reasonable doubt that appellant strangled the victim to death.

The Court's Ruling

The appeal is bereft of merit.

On the question of facts supporting the finding of conviction, it has been consistently reiterated that basic is the rule that the trial court's factual findings, especially its assessment of the credibility of witnesses, are generally accorded great weight and respect on appeal. When the issue is one of credibility, this Court will generally not disturb the findings of the trial court unless it plainly overlooked certain facts of substance and value that, if considered, might affect the outcome of the case.[98] The reason therefor is that the trial courts are in a better

position to decide questions of credibility, having heard the witnesses and observed their deportment and manner of testifying during the trial.[99]

Further, the appellant assails the court's basis for her conviction, which are the various circumstantial evidence pointing to a finding beyond reasonable doubt of her guilt of the crime committed. We uphold the finding of the trial court. In criminal jurisprudence, it is widely held that direct evidence of the commission of a crime is not the only matrix from which a trial court may draw its conclusion and finding of guilt.[100] Circumstantial evidence may alone be sufficient to prove the elements of the crime so long as the following requisites concur:

1. there is more than one circumstance;
2. the facts from which the inferences are derived are proven; and
3. the combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.[101]

The circumstances themselves, or a combination thereof, should point to overt acts of the accused that would logically point to the conclusion, and no other, that the accused is guilty of the crime charged and at the same time inconsistent with the hypothesis that he is innocent.[102] Resort to circumstantial evidence is essential when to insist on direct testimony would result in setting felons free.[103]

In the case at bar, the RTC adequately enumerated the numerous circumstances that led to the conclusion that appellant was guilty beyond reasonable doubt of the crime of homicide, to wit:

1") [appellant] and [Josephine] were left alone with the victim in the morning of September 12, 2008 (TSN dated February 8, 2010, pages 19-20); 2) Atty. Venegas was still alive then; [3)] sometime before aforesaid date Atty. Venegas scolded both [appellant] and [Josephine]; [4)] that [Josephine] and [appellant] resented being scolded (TSN dated February 8, 2010, pages 24-25); [5)] in the evening of September 12, 2008, Atty. Venegas was found dead in his office and [appellant and Josephine] left the house of the victim and could no longer be found. (TSN dated February 20, 2010, pages 17 and 19)"[104]

To these circumstances, We make further observation based on record that Rommel Pabuaya, the boyfriend of appellant and the one pointed to by the latter as the actual perpetrator of the crime, has no motive nor apparent reason to commit the same. Appellant herself testified that Rommel was only there to visit and bring her food.[105] Then, she confirmed that it was the first time for Rommel to visit that house.[106] She also testified that Rommel was not known personally to the victim.[107] These factors added to the fact that no allegation nor testimony from any of the witnesses was made about missing valuables or personal property that belong to the victim or other members of his family, thus, excluding the probability of robbery as a motive, lead to the conclusion that it is highly unlikely for Rommel to have committed the crime, based on what is on record in the case at bar. Unless new evidence proving the contrary surfaces, this theory of appellant currently holds no water.

On the contrary, the circumstances surrounding the crime point to appellant's role in the perpetration of the same. That she would readily leave her employer despite the latter's shouting of "Josephine, Josephine, help me!,"[108] without even checking what happened to him even when the door was already opened[109] is highly incredible. That she would not protest about the apparently unarmed Rommel "dragging" her out of the gate[110] is also highly incredible. Then, that she would not protest having been detained, for four months at "Bagong Silangan," and another three months at "Cadiz, Negros"[111] is also highly incredible. Appellant is a 30-year old adult of apparently normal intelligence.[112] At the least, she should have suspected something wrong happening to her employer and that she would be implicated in the wrongdoing if she went and remained with her boyfriend. But she did not do anything, even during the time that she was already under police custody in Cadiz, Negros (Occidental) for one week.[113] Her only excuse for not reporting her "detention" by Rommel was that Rommel's

mother visited her daily and threatened her about speaking,[114] but such does not suffice as a plausible explanation for not immediately telling the truth about what had happened given the consequences to her for not doing so.

On the other hand, the circumstantial evidence against appellant point to her culpability. Regardless of Rommel's participation or non-participation in the crime, the circumstances as well as appellant's own admissions point to appellant being either in conspiracy with Rommel or having committed the crime on her own. First, appellant herself appears to exculpate the other accused, Josephine, whom she stated had left the house before or during the commotion when Atty. Venegas was shouting for help.[115] Then, right after it was apparent that violence had been committed against Atty. Venegas, she willingly went with Rommel, boarded a taxi and stayed with him for four months without even trying to find out what happened to her employer.[116] An innocent person would have called for help or preferred to stay behind and report the matter to the authorities; or, having left and realizing that something wrong may have occurred, that person would have taken every opportunity to go to the authorities and reveal the truth behind what happened. Instead, appellant never disclosed anything even up to the point when she was already in police custody for a week.

It is significant to note that appellant admits her presence at the crime scene at the time of its commission; she admits that she and only two other persons were present immediately before, during and right after such commission. She also discounts the direct participation of one of the persons present, Josephine, when she stated that Josephine left right before or during the commotion. Thus, appellant's entire defense rests solely on the allegation that it was the other person, Rommel, who committed the crime without her participation. Such defense lacks merit, however. As previously stated, Rommel lacks either the motive or the reason to commit the crime. And even if We grant that he, indeed, committed the actual killing, the circumstances presented, when analyzed and taken together, lead to no other conclusion except that the appellant participated in the same. To reiterate, these circumstances, as correctly found by the trial court, are as follows:

- "1) [Appellant] and [Josephine] were left alone with the victim in the morning of September 12, 2008 (TSN dated February 8, 2010, pages 19-20);
- 2) Atty. Venegas was still alive then;
- 3) sometime before aforesaid date Atty. Venegas scolded both [appellant] and [Josephine];
- 4) that [Josephine] and [appellant] resented being scolded (TSN dated February 8, 2010, pages 24-25);
- 5) in the evening of September 12, 2008, Atty. Venegas was found dead in his office and [appellant and Josephine] left the house of the victim and could no longer be found. (TSN dated February 20, 2010, pages 17 and 19)"

To this, We add the admission of appellant about her presence when the violence was being committed, and her willing departure and hiding in the aftermath, as well as her hesitation to tell anyone, least of all the authorities, about what happened. All the above circumstances point to appellant's guilt beyond reasonable doubt. No general rule can be laid down as to the quantity of circumstantial evidence which in any case will suffice; but the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt.[117] Such obtains in the present case. Together with the actual proof of the death of Atty. Venegas "by strangulation,"[118] i.e., the corpus delicti, the above circumstances prove the occurrence of the crime of homicide, and appellant's guilt thereof, as found by the trial court.

In her appeal brief, appellant contends that her mere presence during the incident does not prove culpability, as

she was expected to be there, being the victim's housemaid.[119] This contention lacks merit because, as explained previously, the circumstances that implicate appellant were not her mere presence in the crime scene but her admission of presence when the incident was occurring and her fleeing therefrom immediately thereafter without even crying for help or reporting the matter to the authorities.

Second, appellant argues that the fact of her resenting having been scolded by the victim days before the crime was hearsay and should not have been considered.[120] This lacks merit. Any evidence, whether oral or documentary, is hearsay if its probative value is not based on the personal knowledge of the witness but on the knowledge of another person who is not on the witness stand; hearsay evidence, whether objected to or not, has no probative value unless the proponent can show that the evidence falls within the exceptions to the hearsay evidence rule.[121] The fact of the victim "getting mad" at appellant and Josephine two days before the incident was testified to by his son Manuel Venegas. Nothing in the said testimony appears hearsay, except for the fact that the maids apparently told "Mrs. Garcia" that "if the old man got mad again, (the maids) (would) retaliate." [122] However, as for the fact of his father getting mad and punishing the maids two days prior to the incident, Manuel witnessing the same is in the realm of high probability because he lived in the same household as his father and the maids. That could not have been hearsay and was within his personal knowledge. That it was Mrs. Garcia who told him this also was not mentioned in Manuel's complaint-affidavit, which was presented and made part of his oral testimony.[123] At any rate, such fact of "getting mad and punishing the maids" has little relevance to the factual issue of whether or not appellant had a hand in killing the victim, given her admitted presence at the crime scene at the time of its commission.

Third, appellant's insistence on the theory that it was Rommel who committed the crime without her participation,[124] and that she was merely "forced" and "detained" by Rommel to explain her departure from the crime scene and her failure to report the same[125] are also adequately addressed in the preceding paragraphs.

However, We find merit in appellant's contention that the trial court did not impose the correct penalty.

The penalty for homicide under Article 249 of the Revised Penal Code is reclusion temporal. In the absence of any modifying circumstance (either aggravating or mitigating) proven during trial, the penalty shall be imposed in its medium period.[126] There being no mitigating or aggravating circumstance proven in the present case, the penalty under the RPC is the medium period of fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months.[127]

Applying Republic Act (R.A.) No. 4103 or the Indeterminate Sentence Law, the appellant can be sentenced to an indeterminate penalty whose minimum shall be within the range of prision mayor (the penalty next lower in degree to that provided in Article 249) and whose maximum shall be within the range of reclusion temporal in its medium period. Thus, the maximum penalty will be selected from the above range, with the minimum penalty being selected from the range of the penalty one degree lower than reclusion temporal, which is prision mayor (six [6] years and one [1] day to twelve [12] years). Hence, the indeterminate sentence of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of reclusion temporal, as maximum, should be imposed.[128]

On appellant's civil liability, the trial court correctly awarded moral and exemplary damages of P50,000.00 each, but erred in awarding actual damages in the amount of P300,000.00 only. In order for actual damages to be recovered, the amount of loss must not only be capable of proof but must actually be proven with reasonable degree of certainty, premised upon competent proof or best evidence obtainable of the actual amount thereof, such as receipts or other documents to support the claim.[129] Sufficient to support the award of actual damages in the total amount of P326,984.60 are the receipts marked as Exhibits "E" to "E-6"[130] which have been formally

offered^[131] and admitted by the trial court.^[132]

The heirs of the victim are likewise entitled to civil indemnity and moral damages, which are awarded automatically in cases of murder and homicide^[133] without need of allegation and proof other than the fact of the commission of such crimes.^[134] Consistent with prevailing jurisprudence, We find that the trial court correctly awarded the victim's heirs civil indemnity and moral damages in the amount of P50,000.00 each. In addition, and in conformity with current policy, We also impose on all the monetary awards for damages an interest at the legal rate of 6% from date of finality of this Decision until fully paid.^[135]

WHEREFORE, premises considered, the Decision dated 18 April 2012 of the Regional Trial Court of Quezon City, Branch 96, in Criminal Case No. Q-09-157721, is **AFFIRMED** with the **MODIFICATION** imposing upon accused-appellant MICHELLE BERINGA the indeterminate sentence of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of reclusion temporal, as maximum; increasing the award of actual damages to P326,984.60; and imposing on all the monetary award for damages interest at the legal rate of 6% per annum from date of finality of this Decision until fully paid.

SO ORDERED.

Rosario, and Dimagiba, JJ., concur.

[1] RTC records, p. 1.

[2] Id. at 41.

[3] Id.

[4] Direct examination of Manuel Venegas, TSN, January 26, 2010, pp. 7-9.

[5] Id. at 11.

[6] Id. at 8, 11.

[7] Id. at 12-14.

[8] Id. at 14-15.

[9] Id. at 14-16.

[10] Id. at 16-17.

[11] Id. at 17-18.

[12] Id. at 18-19.

[13] Id. at 21.

[14] Id. at 20.

[15] Id. at 23-25.

[16] Id. at 25-30.

[17] Cross-examination of Manuel Venegas, TSN, April 5, 2010, p. 10.

[18] Direct examination of P/Insp. Joseph Carlos Madrid, TSN, October 18, 2010, pp. 3-6.

- [19] Id. at 6-7.
- [20] Id. at 7-8.
- [21] Direct examination of Nina Garcia, TSN, April 25, 2011, p. 4.
- [22] Id.
- [23] Id. at 5.
- [24] Id.
- [25] Id. at 5-6.
- [26] Id. at 6.
- [27] Id. at 6-7.
- [28] Id. at 7.
- [29] Id. at 8.
- [30] Id.
- [31] Id. at 9.
- [32] Cross-examination of Nina Garcia, id. at 10.
- [33] Id. at 10-11.
- [34] Direct examination of Michelle Beringa, TSN, October 5, 2011, pp. 4-6.
- [35] Id. at 6.
- [36] Id. at 7.
- [37] Id. at 8.
- [38] Id. at 9.
- [39] Id. at 9-10.
- [40] Id. at 10.
- [41] Id.
- [42] Id. at 11.
- [43] Id.
- [44] Id. at 11-12.
- [45] Id., TSN, November 9, 2011, p. 4.
- [46] Id.
- [47] Id.
- [48] Id.
- [49] Id. at 4-5.

- [50] Id. at 5.
- [51] Id. at 5-6.
- [52] Id. at 6-7.
- [53] Id. at 7.
- [54] Id. at 8-9.
- [55] Id. at 9.
- [56] Id.
- [57] Id. at 10.
- [58] Id. at 10-11.
- [59] Id. at 11.
- [60] Id.
- [61] Id. at 12.
- [62] Cross-examination of Michelle Beringa, TSN, February 8, 2012, pp. 4-5.
- [63] Id. at 6.
- [64] Id. at 8.
- [65] Id.
- [66] Id. at 10.
- [67] Id. at 11.
- [68] Id.
- [69] Id. at 12.
- [70] Id., TSN, May 14, 2012, pp. 4-5.
- [71] Id. at 5.
- [72] Id.
- [73] Id.
- [74] Id. at 10-11.
- [75] Id. at 11, 13.
- [76] Id. at 12.
- [77] Id. at 13-15.
- [78] Id. at 16.
- [79] Id. at 16-17.
- [80] Id. at 18-19.

[81] Id. at 19-20.

[82] Id. at 21.

[83] Id. at 21-22.

[84] Id. at 22.

[85] Id. at 23.

[86] Id. at 24-25.

[87] Id. at 26-27.

[88] Id. at 27.

[89] Id. at 28.

[90] Id. at 28-29.

[91] Id. at 29.

[92] Id.

[93] Id. at 29-30.

[94] Id. at 30.

[95] Id. at 30-31.

[96] Id. at 32-33.

[97] Rollo, p. 53 (page 4 of the appealed Decision).

[98] *Tindoy v. People*, G.R. No. 157106, September 3, 2008, 564 SCRA 39, 47, citing *People v. Laceste*, G.R. No. 127127, July 30, 1998, 293 SCRA 397.

[99] Id.

[100] *Alvarez v. Court of Appeals*, G.R. No. 141801, June 25, 2001, citing *People vs. Espina*, 326 SCRA 753, 762 (2000); *People vs. Lopez*, 313 SCRA 114 (1999); *People vs. Danao*, 253 SCRA 146 (1996).

[101] Id., citing RULES OF COURT, Rule 133, Sec. 4.

[102] Id., citing *People vs. Salonga et al.*, G.R. No. 128647, 31 March 2000, p. 15; *People vs. De Guia*, 280 SCRA 141 (1997).

[103] Id., citing *People vs. Salas*, 329 SCRA 319, 328 (2000).

[104] Rollo, p. 53 (page 4 of the appealed Decision).

[105] Cross-examination of Michelle Beringa, TSN, February 8, 2012, p. 10.

[106] Id. at 11.

[107] Direct examination of Michelle Beringa, TSN, November 9, 2011, p. 9.

[108] Id., TSN, October 5, 2011, p. 10.

[109] Cross-examination of Michelle Beringa, TSN, May 14, 2012, pp. 18-19.

[110] Id. at 19-20.

[111] Id. at 22-29.

[112] RTC records, p. 8.

[113] Cross-examination of Michelle Beringa, TSN, May 14, 2012, pp. 29-30.

[114] Id. at 30.

[115] Direct examination of Michelle Beringa, TSN, October 5, 2011, p. 11; Cross-examination of Michelle Beringa, TSN, February 8, 2012, p. 6; Cross-examination of Michelle Beringa, TSN, May 14, 2012, pp. 16-17.

[116] Direct examination of Michelle Beringa, TSN, November 9, 2011, pp. 5-11; Cross-examination of Michelle Beringa, TSN, May 14, 2012, pp. 19-30.

[117] *People v. Facó*, G.R. No. 115215, September 16, 1999, citing RULES OF COURT, Rule 133, Sec. 4; *People v. Mendoza*, 284 SCRA 705, 714 (1998); *People v. Alberca*, 257 SCRA 613 (1996); *People v. Ramos*, 240 SCRA 191 (1995).

[118] Exhibits "A," "B," "C," and "D," RTC records, pp. 120-124; Direct examination of P/Insp. Joseph Madrid, TSN, October 18, 2010.

[119] Rollo, pp. 40-41.

[120] Id. at 41-43.

[121] *PNOC Shipping and Transport Corp. v. Court of Appeals*, G.R. No. 107518, October 8, 1998.

[122] Direct examination of Manuel Venegas, TSN, January 26, 2010, pp. 23-25.

[123] Exhibit "D," RTC records, pp. 123-124.

[124] Rollo, p. 43.

[125] Id. at 43-46.

[126] REVISED PENAL CODE, Art. 64, par. 1.

[127] *People v. Duavis*, G.R. No. 190861, December 7, 2011, in relation to REVISED PENAL CODE, Arts. 249, 64, par. 1 and 76.

[128] Id.

[129] *People vs. Ignas*, G.R. No. 140514-15, September 30, 2003, citing *People vs. Jakosalem*, G.R. No. 130506, February 28, 2002.

[130] Records, pp. 125-134.

[131] Id., pp. 118-119.

[132] Id., p. 135.

[133] *People vs. Torres, Sr.*, 655 SCRA 720 (2011).

[134] *People vs. Paling*, G.R. No. 185390, March 16, 2011.

[135] *People vs. Nocum, et al.*, G.R. No. 179041, April 1, 2013 citing *People vs. Concillado*, G.R. No. 181201,

November 28, 2011, 661 SCRA 363, 384.

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