

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS.
RAMON ROA, JUANITO SAGAYON, ALIAS “LALA”;
SIMEON AYUMON, RESURRECCION VILLANUEVA ALIAS
“RETE”; AND SERAFIN CATAYOC, DEFENDA...**

G.R. No. L-35284. January 17, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

This prosecution for murder and the subsequent conviction of appellants Ramon Roa, Juanito Sagayon and Resurreccion Villanueva[1] stress the need for alertness on the part of prosecutors and trial judge alike against the danger of constitutional evasion, even if unintended, by undue reliance on testimony that ought to have been subjected to a more painstaking scrutiny. Such a failing might have been based on the belief that appellant Ramon Roa was impelled to instigate the crime as the victim, Baltazar Varquez, was a brother of the then mayor, Manuel Varquez, who presumably reneged on his promise to give way in the 1971 election for the position of mayor of Balingasag, Misamis Oriental. Apparently, there was a motive. That circumstance of itself should not, however, have proven decisive. There was still need for evidence, both competent and credible, to prove the guilt of appellants. Only thus may there be obeisance to compulsion and the authority of the constitutional mandate on the presumption of innocence.[2] Lacking the solidity of proof required, as was apparent in this case, the Constitution ordains an acquittal. The trial court appeared to be of a different frame of mind. A conspiracy linking principal appellant Ramon Roa to the crime was assumed. There was undue reliance on the testimony of appellant Sagayon, who entered an improvident plea of guilty and as a prosecution witness merely reiterated what was said in his confessions that bore the earmarks of lack of voluntariness, as pointed out by him when he likewise took the stand for the defense. A careful study of the record thus reveals the weakness of the case for the prosecution. The constitutional presumption of innocence must prevail, and the judgment of conviction must be reversed.

Now for a perusal of the records to ascertain whether the guilt of appellants had been duly substantiated. First is to be noted the revealing circumstance that the first information for murder resulting from the killing of Baltazar Varquez was filed on November 17, 1971 in the Circuit Criminal Court, 15th Judicial District, not against appellants Roa, Sagayon and Villanueva but against one Benedicto Borres, a certain Serafin Catayoc, and two other individuals designated merely as John Doe and Peter Doe. Then came a more detailed amended information about a week later, on November 23, 1971, against the same parties with a Richard Doe included. It was not until December 11 of the same year, over a month after the commission of the crime, that appellants were named as the accused, Borres this time being excluded, in a second amended information, with a third amended information still to follow on December 16, 1971. The arraignment was held on December 24, 1971 with the accused Sagayon testifying[3] after he pleaded guilty which, as will be discussed later, was done without the safeguards set forth in a number of recent decisions. The subsequent hearings wherein the evidence for the prosecution were presented were held on December 31, 1971 with the same appellant being further cross-examined, followed by prosecution witnesses, Sgt. Arsenio Fernandez Jr. and the Chief of Police, Aquilino Ipan;[4] on January 15, 1972 with the

continuation of the cross-examination of appellant Sagayon and with Dr. Apolinar Vacalares on the stand;[5] on January 31, 1972 with former Mayor Manuel Varquez, Primitivo Balcovero and Wenceslao Abero testifying'[6] and on March 30, 1972 with Vicente de Vera, Jose Paragas, Primitivo Balcovero, Pilandero Gawad, Alejandro Calimbay, Norberto Valmores, Angelo Abragan, Arsenio Fernandez, Cesario Valledor, Maximo Rodriguez, Charito Akut, and former Mayor Manuel Varquez as witnesses.[7]

From the finding of facts by the trial court, however, it is quite obvious that the principal if not the sole reliance in the conviction of the appellants Sagayon, Roa, and Villanueva was on the testimony of the first-named, correlated with "his extra-judicial confessions",[8] the contribution of the other witnesses to the alleged proof of guilt being quite minuscule if the word could be considered appropriate. There was this conclusion of conspiracy entered into by appellants: "This Court finds that in the morning of November 6, 1971, at the house of Ramon Roa, at centro Balingasag, Misamis Oriental Ramon Roa, the godfather of Juanito Sagayon and who had at one time or another extended benefits to Sagayon and was apparently looked up to by Sagayon as somebody he (Sagayon) should respect and listen to, in short, one who had moral ascendancy over Sagayon, proposed to Juanito Sagayon, the killing of Baltazar Varquez and/or Manuel Varquez. This conspiracy or proposal to commit this murder or homicide by Ramon Roa was agreed to by Sagayon and in fact, later on, was carried out. This conspiracy or proposal to commit Murder was agreed to by Resurreccion Villanueva . . ."[9] As to how the killing was perpetrated, the appealed decision stated: "The next morning, November 7, 1971, Simeon Ayumon and Juanito Sagayon loaded the 12-range shotguns, exhibits D, E, and F, with 'double zero' bullets, containing 9 pellets each, ... That whole morning they waited for Manuel Varquez and his brother Baltazar Varquez on the road at Solo some ½ kilometer away from the house of Rete Villanueva. At noon they went home to take their lunch at Rete Villanueva's house and took a nap in the afternoon.... In the evening of November 7, 1971 the truck driven by Serafin Catayoc accompanied by Baltazar Varquez, Norberto Valmores and others stopped near the house of Rete Villanueva because they noticed that the lights had low voltage. Upon reaching the house of Rete Villanueva, Baltazar Varquez went down the truck and Baltazar Varquez borrowed the flashlight of Rete Villanueva. Baltazar Varquez wrapped his head with a white towel. ... This identification and pointing out by Villanueva enabled Sagayon to know Baltazar Varquez. Juanito Sagayon then took the flashlight from Villanueva and with the shotgun Exhibit D already loaded with the bullet exhibit D-2 went after the truck which had stopped again some 80 meters from Villanueva's house going downhill. Lala ran after the truck. He saw that the truck had stopped again. Baltazar Varquez had gone down from the truck again to see what's wrong with the engine. Eslao Abero who had gone up the truck near Villanueva's house, lighted a match to enable Baltazar and Norberto Valmores to see the engine whose hood was open. At this precise moment Juanito Sagayon fired his shotgun Exhibit D, at the back of Baltazar Varquez hitting Baltazar Varquez on the back and Varquez fell down dead with 9 shotgun wounds at the back. ... The lungs and heart were penetrated by the pellets."[10]

The crucial question thus is whether on the testimony of appellant Sagayon, coupled with his extrajudicial confessions, an accused who had, as will be shown, improvidently entered a plea of guilty but who was not thereafter immediately sentenced and therefore under the natural temptation to make things easier for him by cooperating with the prosecution, one, moreover, who had repudiated the version given by him on the witness stand as well as his confessions when he was called by the defense as a witness specifying then the coercive means employed against him causing him to impute guilt to the other appellants and to admit his role as gunman, would suffice to overcome the constitutional presumption of innocence. Before giving an explicit answer to the question, to place things in their proper perspective, a recital of Sagayon's declaration to demonstrate that the charge against him and his co-accused was without sufficient foundation, a matter completely ignored by the trial court, would be in order. His counsel, one Attorney Manolo Tagarda, had him execute an affidavit, the question and answer being in Visayan,[11] and he was asked to repeat what was stated therein on the witness stand. The

first question was why he sent for his lawyer, the answer in Visayan as translated into English being: "In order to help me in my case." [12] He was then reminded that as he had already admitted his guilt, how did he expect additional help from counsel, to which he replied, again in translation: "I was only taught to say that I will admit that I was the one who killed Baltazar Varquez." [13] When directly confronted with whether or not he killed Baltazar Varquez, he answered: "Dili tinuod", [14] which, in English, means: "It is not true." [15] Why did he then admit that he did so. He stated simply: "Guipugos man ako sa pagpaangkon." [16] It is translated into English thus: "I was forced to admit." [17] As to who forced him, his laconic reply was: "Ang PC." [18] When asked how force was employed, he answered, again in translation: "Boxed my belly, twisted my [pusod] then I was forced to say that I killed Baltazar Varquez and that I was commanded by Ramon Roa." [19] He was asked to identify the persons who employed force. He did so, in words as translated thus: "I was not able to recognize because it was nighttime when they entered my cell and they put out the electric light, but at day time the one who boxed me was Sgt. Caayopan, as a matter of fact Rete Villanueva was present and he saw it." [20] As to why he obeyed them, he admitted: "Tungod sa akong kahadlok", [21] which in English means "Because of my fear." [22] Queried further as to why he was so fearful, he answered again in Visayan which, as translated into English, reads: "Because they told me that if I would not follow what they taught me they could kill me." [23] As to why he could be certain that the force was employed by the constabulary forces, he had this to say: "PC gayod kay ana-a man ako sa stockade sa PC", [24] the English translation being: "It was the PC really because I was at the PC stockade." [25] There was no cross-examination on the part of the prosecution. It considered the affidavit as hearsay, ignoring the fact that it was reaffirmed and reiterated on the stand by appellant Sagayon. Moreover, on a matter that did cast into serious doubt the veracity of the version as offered by the prosecution and indicative of the coercion employed, repeatedly frowned upon by decisions of this Court, there was this rather astounding statement by the fiscal: "We consider that [referring to his testimony in court] immaterial." [26]

The infirmity of the case against appellants is thus readily apparent. It could not meet the exacting standard required for the constitutional presumption of innocence to be overcome. The evidence of record, to quote from Justice Perfecto in *People vs. Erana*, [27] "casts a dark shadow of doubt" [28] as to their guilt. Thus, their conviction, in the language of Justice Tuason in *People vs. Esquivel*, [29] "rests on a slender and shaky foundation." [30] The edifice intended to demonstrate culpability could not then stand the strain. It had to collapse. That is the conclusion called for by a careful and thorough study of the voluminous transcript of stenographic notes as well as the exhibits offered. In reaching that result, this Court is aided by the able brief filed on behalf of appellants [31] and even more so by the analytical and persuasive memorandum for appellant Sagayon by his counsel de officio, Vicente M. Custodio, who argued his case and who thereafter likewise submitted as collaborating counsel a memorandum for appellant Roa. To repeat, the guilt of appellants had not been shown beyond reasonable doubt, and the judgment of conviction must be reversed.

1. There is, in *People vs. Dramayo*, [32] decided not too long ago, a restatement of what the constitutional presumption of innocence signifies: "Accusation is not, according to the fundamental law, synonymous with guilt. It is incumbent on the prosecution to demonstrate that culpability lies. Appellants were not even called upon then to offer evidence on their behalf. Their freedom is forfeit only if the requisite quantum of proof necessary for conviction be in existence. Their guilt must be shown beyond reasonable doubt. To such a standard, this Court has always been committed. There is need, therefore, for the most careful scrutiny of the testimony of the state, both oral and documentary, independently of whatever defense is offered by the accused. Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on

the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. What is required then is moral certainty."^[33] It was likewise noted therein that such a doctrine could be traced to the 1903 decision of *United States vs. Reyes*.^[34] It was then stated that from the leading case of *United States vs. Lazada*,^[35] promulgated in 1910, at least twenty-eight other cases, the last case being *People vs. Gallema*,^[36] adhered to such a basic doctrine. The formulation as to the scope of the constitutional presumption of innocence in *Dramayo* was cited with approval in six other cases beginning with *People vs. Macaraeg*,^[37] and ending with *People vs. Reyes*.^[38]

2. Appellant Ramon Roa was then the Vice-Mayor of Balingasag, Misamis Oriental, running for the mayoralty in the 1971 elections not only against the incumbent Mayor Manuel Varquez, brother of the victim Baltazar, but also against two other candidates. There was the supposition then that he entertained a grievance against the former for going back on his promise not to run in that particular election and thus leave the field to this appellant. From such a tenuous circumstance, the prosecution would discern a motive sufficient to do away with either or both the Varquez brothers. There could be at most surface or deceptive plausibility to such a hypothesis. Not too intense a cerebration however is needed to make apparent the lack of persuasiveness of such an assumption. There was nothing in the record of appellant Roa to show that he was a man disrespectful of the law, much less addicted to violence. Even from the standpoint of self-interest, what would the profit be? The success of such a nefarious scheme would only benefit his other two opponents. Besides, the risk was too great. He could be made to pay with his life or suffer reclusion perpetua; his family would be deprived of his care and support; his good name would be forever lost.

Such allegation of a possible motive unable to survive the test of the rational, what was the evidence against him. As pointed out in the brief for the accused-appellant: "There are 1,310 pages of the transcript of stenographic notes, and except Juanito Lala Sagayon in his first testimony, no one has ever corroborated him in his assertion that Ramon Roa told him to kill Baltazar Varquez and Manuel Varquez. The same is true in the whole records of the case as well as all the Exhibits and yet even after Juanito Lala Sagayon on his own volition, made a turnabout by declaring that it was not true that Ramon Roa had told him to kill Baltazar Varquez and Manuel Varquez the court still insisted in convicting Ramon Roa of having engaged in conspiracy to kill Baltazar Varquez and Manuel Varquez."^[39] There was nothing then but the discredited and repudiated testimony of appellant Sagayon who, when given the opportunity to explain his none-too-credible assertion of a conspiracy with appellant Roa as the instigator, did reveal how he was compelled to lie. What was elicited from him as defense witness certainly had closer kinship with the probabilities of the situation. Nor could it be successfully maintained that just because the two alleged confessions, Exhibits A and B, were taken before the Clerk of Court, Charito A. Akut and before Provincial Fiscal Maximo G. Rodriguez, and his testimony was offered as a prosecution witness at the trial, that there was no element of coercion. It is to be remembered that he was under the custody of the Philippine Constabulary with a specifically-named individual being singled out as having maltreated him, one Sgt. Hospicio Caayopan, although there were others not identified to whom such misdeed was attributed. For an unlettered uninstructed individual such as appellant Sagayon, a member of a cultural minority, the momentum of fear could not be said to have vanished when the affidavits were executed his declaration made on the stand. Moreover, this appellant had just entered an improvident plea of guilty, but he had not yet been sentenced. He was thus equally disposed to be more cooperative in the hope that leniency would be shown.

There is more than just reasonable doubt then, considering further that the first principal accused in this particular offense was one Benedicto Borres, so named in the information of November 17, 1971 and the amended information of November 23, 1971. There was, as a matter of fact, an affidavit executed by the accused Serafin Catayoc who was able to obtain an order of dismissal after the prosecution rested its case on the ground that the evidence for conviction was insufficient, who did name Borres as the one who did the shooting.^[40] When put on

the stand, he affirmed that Benedicto Borres was carrying a gun,[41] and that with it, he shot "the one who died." [42] He was referring to Baltazar Varquez.[43] It was then an act of haste, to say the least, when the provincial fiscal made the categorical assertion in his motion of December 11, 1971 that "after a reinvestigation, there is no sufficient evidence to hold Benedicto Borres liable in the above-entitled criminal case." [44] Such is the frailty of the proof offered against appellant Roa, and it is quite manifest that it does not suffice to overcome the constitutional presumption of innocence. As much, if not more, can be said of the evidence against appellant Resurreccion Villanueva, considered by the trial judge to be included in the conspiracy, but whose alleged participation was limited to appellant Sagayon staying in his place and the shooting occurring in that vicinity. He, too, is entitled to acquittal.

3. Now as for appellant Juanito Sagayon. As previously indicated, on the very day of his arraignment, on December 24, 1971, he entered a plea of guilty to the third amended information for murder naming him as one of the accused. Reference was made to such a plea being improvidently entered. This is so, as evidenced by what transpired on such an occasion. His then counsel Emmanuel Melendez sought "to have a few minutes conference with him." [45] The court asked: "How many minutes?" [46] The answer: "Ten minutes, Your Honor." [47] There was this further query from the judge: "What for, to prepare for trial or enter a plea of guilty?" [48] This was the reply: "We still find out what is in his mind, to plea guilty or to proceed with the trial of this case because I have been informed of his case only yesterday." [49] Time was given to him, but no mention was made as to the length thereof. Thereafter, counsel made the statement: "We are ready now and he is willing to enter a plea of guilty." [50] It was then that the judge said that he would suspend the imposition of the penalty, thus indicating that he was amenable to such a plea even without the safeguards set forth in *People vs. Apduhan* [51] being observed. He did make of record "that Juanito Sagayon alias 'Lala' is entering a plea of guilty today and that this Court asked him twice whether he is entering a plea of guilty and he said 'Yes'." [52] It cannot be said therefore, following the well-settled doctrine which, as pointed out in *People vs. Estebia*, [53] is based on the due process clause requiring that fairness be observed that such a plea of guilt can be allowed to remain undisturbed. [54]

Ordinarily, under the circumstances, the case should be remanded to the trial court so that such a grave procedural defect could be remedied. The need for such a remand is obviated because appellant Sagayon was heard not once but twice, first, for the prosecution, and then on behalf of the defense. Nor could his conviction be sustained on what was said by him when he was called to the stand by the former as a witness for the People. Mention may be made again that what was testified to by him was repudiated later on and that such disowned testimony amounted to a faithful rendition of what was stated in his confessions which, as already indicated, could not meet the test of voluntariness. Again, if the lower court were duly mindful of pronouncements from this Tribunal, it would not have readily accepted the version of appellant Sagayon when the fiscal put him on the stand. All that he did, as just noted, was to reiterate the aforesaid confessions. On June 2, 1972, when the trial court rendered its decision, *People vs. Bagasala* [55] recently promulgated, was quite categorical. There it was held that a confession suffering in any wise from "coercion, whether physical, mental or emotional" [56] is inadmissible. "What is essential for its validity," as therein stressed, "is that it, proceeds from the free will of the person confessing." [57] Then, in April of 1972 came *People vs. Urro*. [58] Justice Teehankee as ponente emphasized: "A coerced confession 'stands discredited in the eyes of the law and is as a thing that never existed.'" [59] Further: "In any case, the most painstaking scrutiny must be resorted to by the trial courts in weighing evidence relating to alleged voluntary confessions of the accused and the courts should be slow to accept such confessions unless they are corroborated by other testimony." [60] In the same way, therefore, that his admissions could not be made the basis for sustaining the judgment of conviction against appellants Roa and Villanueva, they could not, certainly, be held against him either.

Equally in Sagayon's favor is the submission in the memorandum of his counsel de oficio, Vicente M. Custodio,

that his guilt was not established by the evidence for the prosecution. The testimony of Dr. Apolinar Vacalares, who performed the autopsy, and that of the Chief of Police, Aquilino Ipan, were analyzed by him thus: "The testimony of Dr. Vacalares stands undisputed in the record that the trajectory of the nine pellets was 'straight horizontally' in entering the body of Baltazar Varquez. And also the testimony of Police Chief Ipan stands undisputed that the nine pellet wounds found on the body were 'close to each other,' occupying an area about adult's palm. Did these undisputed facts not clearly show to the Lower Court that Baltazar Varquez was shot at a close range by somebody else, not standing on top of an elevation one meter high? For, otherwise, if it were true that Baltazar Varquez was shot by Sagayon from a far distance of about seven meters, the trajectory of the pellets would undoubtedly have been downward, though not much; and it would have been more markedly downward if, as shown by the prosecution, Sagayon was then standing on top of an elevation one meter high when he allegedly shot Baltazar Varquez." [61] He likewise made mention, as he had the right to, of Borres, the first person to be accused, being specified by the driver of Mayor Varquez, the accused Serafin Catayoc, both in his affidavit and in his declaration on the stand, as the gunman in question. Without accepting such a theory, and incidentally the dismissal of the case against Benedicto Borres came after his plea of not guilty when a motion to that effect filed by the fiscal was granted by the trial court, there is enough to indicate that the guilt of Sagayon had not been shown beyond reasonable doubt. It was not an exaggeration then for counsel de oficio to harbor the suspicion that there was a prejudgment of his guilt. As in the case of appellants Roa and Villanueva therefore, appellant Sagayon is equally entitled to a reversal of his conviction.

4. A word more. There is, of course, the basic societal need that crime should not go unpunished. The resources of the state are available for that purpose. It is the duty of both police and prosecution agencies to ascertain what did in fact transpire and to bring to trial the person or persons against whom evidence exists. Necessarily, the discretion vested in a provincial fiscal is ample. On him rests in the first instance the determination of who should be indicted. Where the crime is rather serious, as in this case, haste is to be deplored. Should the finger of suspicion point to one or more possible culprits, the most meticulous efforts should be exerted to assure that a miscarriage of justice does not thereafter occur. More specifically, where after a plea by a defendant, he is cleared upon an alleged reinvestigation, the reason why it should be thus should be made clear. It must be shown why the charge should be dropped. Nor is the burden solely on the prosecuting arm. The trial court must be equally alert to the possibility that the fiscal could be in error. It is imperative then that the utmost caution be exercised lest a guilty party may escape his just deserts. In the event that another individual would thereafter be accused, the same degree of care in the analysis of the proof submitted is of the essence. The primordial consideration is that the mandate of the Constitution be obeyed. The person at the dock is presumed to be innocent. His guilt must be shown by competent and credible evidence that removes every vestige of reasonable doubt. Moral certainty is of the essence. It is not enough that there be diligence on the part of the trial court as well as acquaintance with applicable decisions from this Tribunal. What is indispensable is a painstaking analysis of the proof submitted. A ready acceptance of the testimony for the prosecution is far from advisable. Always, the thought uppermost should be the ascertainment of truth in ways allowed by the Constitution. A desirable end cannot be achieved by less than full compliance with the requisites of the law. So should it be.

WHEREFORE, the appealed decision of Circuit Judge Meynardo A. Tiro of June 21, 1972 is reversed, and appellants Ramon Roa, Juanito Sagayon and Resurreccion Villanueva are acquitted. Their release is immediately ordered. No costs.

Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] There were two other accused, Simeon Ayumon and Serafin Catayoc. The former at the time of the appealed

decision was still at large while as to the latter, the evidence, for conviction was held as insufficient, resulting in the dismissal of charges against him.

[2] Article IV, Section 19 of the present Constitution, insofar as relevant, reads: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved,..." That was the same provision found in Article III, Section 1, par. 17 of the 1935 Constitution.

[3] T.s.n., 1-110.

[4] Ibid, 111-305.

[5] Ibid, 306-400.

[6] Ibid, 401-561.

[7] Ibid, 562-960.

[8] Decision of the lower court, Brief for the Accused-Appellants, 371.

[9] Ibid. 380.

[10] Ibid, 382-384.

[11] Affidavit, Exhibit 8.

[12] T.s.n., 1114.

[13] Ibid.

[14] Ibid, 1115.

[15] Ibid.

[16] Ibid.

[17] Ibid.

[18] Ibid, 1116.

[19] Ibid, 1117.

[20] Ibid.

[21] Ibid, 1118.

[22] Ibid.

[23] Ibid.

[24] Ibid, 1120.

[25] Ibid.

[26] Ibid, 1132.

[27] 84 Phil. 21 (1949).

[28] Ibid, 30.

[29] 82 Phil. 453 (1948).

[30] Ibid, 458.

[31] The counsel de parte were Fausto Dugenio and Anthony E. Santos.

[32] L-21325, October 29, 1971, 42 SCRA 59.

[33] Ibid, 64.

[34] 3 Phil. 3.

[35] 18 Phil. 90.

[36] L-30588, June 10, 1970, 33 SCRA 440.

[37] L-32806, October 23, 1973, 53 SCRA 285.

[38] L-36874, September 30, 1974. The four other cases follow: People vs. Molina, L-30191, October 27, 1973, 53 SCRA 495; People vs. Zamora, L-34090, November 26, 1973, 54 SCRA 47; People vs. Alvarez, L-34644, January 17, 1974, 55 SCRA 81; People vs. Barbo, L-30988, March 29, 1974, 56 SCRA 459.

[39] Brief for the Accused-Appellants, 229.

[40] Ex. 7 (Villanueva).

[41] T.s.n., 1070.

[42] Ibid.

[43] Ibid.

[44] Record of the Case, 88.

[45] T.s.n., 1.

[46] Ibid.

[47] Ibid.

[48] Ibid.

[49] Ibid, 2.

[50] Ibid.

[51] L-19591, August 30, 1968, 24 SCRA 798. The court made reference to People vs. Solacito, L-29209, Aug. 25, 1969, 29 SCRA 61. After Apduhan and before Solacito were the following decisions of similar import: People vs. Villas, L-20953, April 21, 1969, 27 SCRA 947; People vs. Arpa, L-26789, April 25, 1969, 27 SCRA 1037; People vs. Mongado, L-24877, June 30, 1969, 28 SCRA 642; People vs. Nabual, L-27758, July 14, 1969, 28 SCRA 747. After Solacito and before the date of the hearing of this case, Apduhan was reiterated in the following: People vs. Serafica, L-29092, Aug. 28, 1969, 29 SCRA 123; People vs. Tilos, L-27151, Nov. 29, 1969, 30 SCRA 734; Longao vs. Fakat, L-23978, Dec. 27, 1969, 30 SCRA 866; People vs. Englatera, L-30820, July 31, 1970, 34 SCRA 245; People vs. Espejo, L-27708, Dec. 19, 1970, 36 SCRA 400.

[52] T.s.n., 3.

[53] L-26868, July 29, 1971, 40 SCRA 90.

[54] The latest case in point is People vs. Ybanez, L-35877, December 20, 1974, per Makalintal, C.J.

[55] L-26182, May 31, 1971, 39 SCRA 236.

[56] Ibid, 242.

[57] Ibid.

[58] L-28405, April 27, 1972, 44 SCRA 473.

[59] Ibid, 484. Citing United States vs. De los Santos, 24 Phil. 329 (1913).

[60] Ibid, 484. Cf. People vs. Manobo, L-19798, Sept. 30, 1966, 19 SCRA 30; People vs. Chaw, L-19590, April 25, 1968, 23 SCRA 127; Chavez vs. Court of Appeals L-29169, Aug. 19, 1968, 24 SCRA 663; People vs. Alto, L-18661, Nov. 29, 1968, 26 SCRA 342; Pascual vs. Board of Medical Examiners, L-25018, May 26, 1969, 28 SCRA 344; People vs. Gande, L-28163, Jan. 30, 1970, 31 SCRA 347.

[61] Memorandum for Appellant Sagayon, 4-5.

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