

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN NARDO AND WILLY YLARDE, ACCUSED-APPELLANTS.

G.R. No. 100197. April 04, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In pleading for acquittal, appellants attack the sufficiency of the evidence of the prosecution and the credibility of its witnesses, and offer the defense of alibi and denial. The Court rejects these contentions and applies the familiar rule according great respect to findings of fact by the trial court. However, it finds the accused guilty of four separate crimes of murder and two attempted murders, instead of the complex crime of murder with double frustrated murder.

Accused-appellants Edwin Nardo and Willy Ylarde appeal their conviction[1] by the Regional Trial Court of Tayug, Pangasinan, Branch 51,[2] in a Decision[3] promulgated on May 8, 1991.

Since Ylarde was still at large, only Accused Nardo was initially charged in an Information[4] dated November 9, 1987, filed by Assistant Provincial Fiscal Isidro C. Sta. Maria. Nardo pleaded “not guilty” thereto during his arraignment on June 7, 1988. Accused Ylarde was later charged with the same crime by way of an Amended Information,[5] filed by the same prosecutor, which reads as follows:

“The undersigned hereby accuses EDWIN NARDO and WILLY YLARDE of the crime of MULTIPLE MURDER WITH DOUBLE FRUSTRATED MURDER, committed as follows:

That on or about the 21st day of July, 1985, in the evening, at Barangay Poblacion East, municipality of Umingan, province of Pangasinan, New Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with the qualifying circumstance of treachery armed with M16 Armalite Rifles, conspiring, confederating and helping one another, did then and there wilfully, unlawfully and feloniously shoot and fire at in a sudden and unexpected manner, CLARO SUITOS, MICAELA SUITOS, CLARENCE SUITOS, ANICIA SALES, MACARIO DELA PEÑA and LUZVIMINDA PUDOL, causing the death of CLARENCE SUITOS, ANICIA SALES, MACARIO DELA PEÑA and LUZVIMINDA PUDOL and wounding CLARO SUITOS on the left shoulder and MICAELA SUITOS on the left hip, to the damage and prejudice of the heirs of CLARENCE SUITOS, ANICIA SALES, MACARIO DELA PEÑA, LUZVIMINDA PUDOL, CLARO SUITOS and MICAELA SUITOS.

CONTRARY to Article 248 of the Revised Penal Code.”

To said charge, Accused Ylarde pleaded not guilty on April 18, 1990. After due trial, the court a quo rendered its Decision convicting both accused as charged. The following is the decretal portion of said Decision:

“WHEREFORE, premises considered, the Court finds the accused Edwin Nardo and Willy Ylarde GUILTY beyond reasonable doubt of the crime of Multiple Murder with Double Frustrated Murder, defined and penalized under Article 248 in relation to Article 48 of the Revised Penal Code and there being no aggravating

nor mitigating circumstance to off-set each other, hereby sentences both accused to suffer the penalty of RECLUSION PERPETUA and to pay jointly and severally the following:

1. Heirs of Clarence Suitos, P50,000.00 as indemnity plus P3,500.00 for the coffin and P10,000.00 for the expenses incurred during the wake;
2. Heirs of Macario dela Peña, P50,000.00 as indemnity and P20,000.00 for the funeral expenses and the wake;
3. Heirs of Anicia Sales, P50,000.00 as indemnity plus P20,000.00 for the funeral expenses and the wake;
4. Heirs of Luzviminda Pudol, P50,000.00 as indemnity and P15,000.00 for the funeral expenses and the wake;
5. Micaela Suitos, P21,000.00 for the medical expenses incurred for her treatment and her husband's (Claro) injuries at the Sacred Heart Hospital in Urdaneta, Pangasinan, plus P10,000.00 as moral damages; and
6. Costs of this suit.”[6]

Thus, this appeal.

The Facts

The antecedents of the case, as related by the trial court and adopted by the Solicitor General in his Brief,[7] are as follows:

“EVIDENCE OF THE STATE:

From the collective testimonies of Dra. Thelma Busto, MHO of Umingan, Pangasinan, Micaela Suitos, wife of Claro (Vic) Suitos one of the injured parties and Rogelio Fernandez, the incident happened as follows:

In the morning of July 21, 1985, the accused Edwin Nardo and Willy Ylarde went to the eatery of spouses Claro (Vic) and Micaela Suitos located at the public market of Umingan, Pangasinan. They brought with them a buri bag which turned out to contain marijuana leaves. They were offering to sell the same to Claro Suitos who told them that it is prohibited, so they left.

At around 6:30 in the evening of the same day, Edwin Nardo and Willy Ylarde went back to the eatery of the spouses and then and there fired indiscriminately at the place with a baby armalite used by Edwin Nardo and a short firearm used by Willy Ylarde. The firing resulted to (sic) the death of Clarence Suitos, Anicia Sales, Macario dela Peña and Luzviminda Pudol and in the wounding of Claro (Vic) Suitos, Micaela Suitos and the slightly (sic) wounding of Marivic Suitos.

The spouses Claro and Micaela Suitos were brought to the Sacred Heart Hospital in Urdaneta, Pangasinan where they were treated spending P15,000.00 leaving a balance of P6,000.00 unpaid. Their wounded daughter Marivic was merely extended first aid because her injury was merely slight (daplis). Their other daughter Clarence who died in the incident caused them to spend P3,500.00 for her coffin and P10,000.00 for the nine-day wake.

Upon the agreement of the prosecutor and the defense counsel, the expenses for the funeral and wake of the deceased Macario dela Peña and Anicia Sales were pegged at P20,000.00 each while for the deceased Luzviminda Pudol, it was pegged at P15,000.00.

The dead namely, Luzviminda Pudol, Macario dela Peña, Clarence Suitos and Anicia Sales were autopsied by Dra. Thelma Busto (Exhs. A to D).

Pending trial, Claro (Vic) Suitos died in an ambush on October 23, 1989.

EVIDENCE OF THE DEFENSE:

The accused put up the defense of alibi.

They claim that in the morning of July 21, 1985, they went to the eatery of the spouses Claro and Micaela Suits to sell ten (10) cartoons (sic) of blue seal Marlboro cigarettes and five (5) packages of matches contained in a bag owned by Boy Lopez. Failing to sell the items, as instructed of them by the owner Boy Lopez, they proceeded to Quezon City at around 11:00 a.m. to return the said items to Boy Lopez at 89 West Point St., Cubao, Quezon City. They arrived at 4:00 p.m.. They slept at said place with the caretaker Juan Andres, Jr. and the maid of Boy Lopez named Rosie Espiritu. They left for Umingan, Pangasinan the following day, July 22, 1985.

Their stay at Quezon City was corroborated by witness Juan Andres, Jr., the caretaker of Boy Lopez.

Witness for the defense Nicanor Aquinde, a police investigator of the PC/INP of Umingan, Pangasinan testified that immediately after the incident, he investigated the spouses Claro and Micaela Suits at the Sacred Heart Hospital in Urdaneta, Pangasinan. In that investigation, both mentioned names other than the herein accused as suspects. Said investigation however which was reduced to writing was unfinished and unsigned because the spouses requested him that they will better give their statements as soon as they get fully well as they are still in a state of shock. And upon their request which said investigator granted, the unfinished and unsigned statements were burned by him.

Reynaldo Andres, on the other hand, testified as follows:

On the day of the incident, he was a tricycle driver then residing at Brgy. Sinabaan, Umingan, Pangasinan. At around 8:00 p.m. on July 21, 1985, he parked his tricycle in the western gate of the compound of public market of Umingan, Pangasinan while waiting for passengers. While thereat, he heard gunshots so he took cover. After the firing, four (4) men approached him and told him to carry them somewhere near the boundary of Umingan and Lupao. Because he was threatened with a long firearm, he ferried them to the destination he was told which was near the boundary of Lupao and Umingan where there were no houses. He did not recognize any of them because it was night-time.”[8]

Disposing of the accused’s defense of alibi, the trial court gave credence to the categorical and positive testimony given by Eyewitnesses Micaela Suits and Rogelio Fernandez identifying the accused as the perpetrators of the mass murder. Said eyewitnesses were without motive or ill will to perjure their testimonies and to implicate appellants in the crime. Although Micaela Suits failed to name the accused during the police investigation conducted immediately after the incident, the trial judge attributed this failure to the “tension of the moment, shock, excitement and haste, which fact was sustained by (Pat. Nicanor) Aquinde when he agreed to the burning of the alleged unfinished and unsigned statements” of Claro and Micaela Suits.

In addition, the court a quo noted two other factors negating the accused’s claim of innocence: one, the flight of both accused from where the incident happened, which was also their hometown (Umingan, Pangasinan), to elude arrest[9]; and two, the relationship of the defense witnesses, Brothers Reynaldo and Juan Andres Jr., to Accused Willy Ylarde.[10]

Finally, the lower court found both accused to have conspired in the murder of the victims, as proven by the simultaneous discharge of their firearms.

Issue

In their appeal, accused-appellants assign this single error to the trial court’s Decision:

“The trial court erred in not acquitting the two herein accused upon the ground that although their defense, in the nature of alibi, is inherently a weak defense, it should be considered sufficient as in this case, to tilt the scale of justice in favor of the accused because the evidence of the prosecution is itself weak and unconvincing

and therefore, by and large, insufficient to prove the guilt of the accused beyond reasonable doubt.”[11]

Restated in clearer and more concise form, the issue centers on the credibility of witnesses and sufficiency of prosecution evidence to prove the guilt of the accused beyond reasonable doubt.

Accused-appellants assail the testimony of Witness Micaela Suitos pinpointing them as the perpetrators of the carnage in spite of the fact that she had earlier named other persons as the assailants. According to appellants, what lends more doubt to her charge is the fact that she claimed to have known both accused prior to the incident and also to have seen them in the morning of that ill-fated day, yet failed to mention their names to the police investigator. If indeed they were the culprits, she could not have forgotten to name them during the investigation conducted immediately after the incident. Appellants likewise cast doubt upon the testimony of Rogelio Fernandez, citing his failure to give a statement to the authorities prior to his testimony in court more than five years later. They stressed that one of the fatalities was one of his landlords.

The Solicitor General sustains the findings of the trial judge who concluded that, after observing the demeanor of the witnesses, the evidence for the prosecution was sufficient to prove that the accused were guilty beyond reasonable doubt of the crime charged. He prays for the affirmation in toto of the appealed Decision.

The Court’s Ruling

We affirm the findings of the trial court as regards the guilt of the appellants. However, the crime committed was not multiple murder with double frustrated murder, but four (4) separate crimes of murder committed against each of the four victims -- Clarence Suitos, Macario dela Peña, Anicia Sales and Luzviminda Pudol -- and two (2) separate crimes of attempted (instead of frustrated) murder committed against Spouses Claro and Micaela Suitos.

The Court reiterates the oft-stated general rule in assessing the credibility of witnesses and their testimonies that:

“x x x when the question is raised as to whether to believe the version of the prosecution or that of the defense, the trial court’s choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses’ demeanor and deportment on the witness stand, and the manner in which they gave their testimonies, and therefore could better discern if such witnesses were telling the truth; the trial court is thus in the better position to weigh conflicting testimonies. Therefore, unless the trial judge plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case, his assessment on credibility must be respected.”[12]

After a scrupulous review of the records of the case, we find that the court a quo did not overlook any fact of substance and value which would alter the conviction of the appellants. No palpable error was committed by the said trial court in assessing the credibility of both prosecution and defense witnesses, and in weighing the value of their testimonies. It correctly concluded that the defense of “alibi is unavailing because the accused were positively identified by witnesses without motive to charge falsely the accused especially with a grave offense that could bring death by execution on the culprit(s).”[13] Besides, Micaela Suitos was a victim herself and a close relative of other victims, whose testimony should normally be accepted since such witness “usually strive(s) to remember the face(s) of the assailant(s).”[14] Furthermore, “relationship with a victim would deter a witness from indiscriminately implicating anybody to the crime. His natural and usual interest would be to identify the malefactor and secure his conviction to obtain true justice for the death of a relative. This is (e)specially so when the witnesses were present at the scene of the crime.”[15] In this case, Micaela Suitos witnessed the event. She unwaveringly and steadfastly testified as follows:

Q On July 21, 1985, on or about 6:30 o’clock in the evening, do you recall where you were?

A I was inside our eatery inside the market.

Q Were you alone?

A We were then six.

Q Who were your companions?

A My husband, Vic Suitos, Clarence[16] Suitos, Minda Pudol, Alicia[17] Sales and Macario dela Peña.

Q What is the name of your husband?

A Claro Suitos.

COURT:

Q Where is that eatery located?

A Inside the market of Umingan, Pangasinan.

PROS. PEREGRINO:

Q Do you have any relationship with Vic Suitos?

A My husband.

Q Do we get it from you that the nickname of Vic is Claro?

A Yes, sir.

Q How are you related to Clarence Suitos?

A She is my daughter.

x x x x x x x x

Q While you and your companions whose names you just mentioned in the Honorable Court are with you in your carenderia on that date and time, do you recall of any unusual incident that happened?

A I saw the shooting and their death.

Q Who did the shooting?

A Edwin Nardo and Ylarde.

Q Do you know the person by the name of Willy Ylarde?

A He used to be my customer.

Q Yes, but you mentioned previously a certain person who did the shooting as Ylarde, I am asking you if you know one by the name of Willy Ylarde?

A I know him, sir. He is there. Witness pointing to the accused Willy Ylarde.

Q Will you also point to the person of Edwin Nardo?

A Witness pointing to the person of Edwin Nardo.

Q Who were those shot by the shooting made by the two accused?

A Clarence Suitos, Minda Pudol, Macario dela Peña, Vic Suitos and I. Anicia Sales including my daughter were also wounded in their arm.

Q What is the name of your daughter?

A Marivic Suitos.

Q Where were Edwin Nardo and Willy Ylarde at the time when they made the shooting of those persons mentioned including yourself?

A They were fronting my restaurant. I thought they are going to eat but its (sic) not.

Q What happened with Clarence Suitos?

A She died.

Q How about Alicia Sales?

A She also died.

Q How about Macario dela Peña?

A He also died.

Q Minda Pudol?

A She also died.

Q How about your husband Vic Suitos?

A We brought him with (sic) the police car to the nearest hospital.

Q How about you?

A I was also brought to the Doctor's Hospital.

Q Where?

A Urdaneta, Pangasinan.

Q Do we get it from you that both you and your husband went to the hospital?

A Yes, sir.

Q By the way can you tell the Honorable Court what kind of gun was used by Edwin Nardo and Willy Ylarde in shooting you and your companions inside your carenderia on July 21, 1985?

A What I know it's a baby armalite because it's inside the jacket."[18]

The above account of Micaela Suitos was corroborated in substance by the other eyewitness, Rogelio Fernandez. He also positively identified both accused as the gunwielders who had indiscriminately fired at the Suitos' canteen. The relevant portions of his testimony are as follows:

Q On July 21, 1985 at around 6:00 o'clock in the afternoon or in the evening, where were you?

A We were in town.

Q You said we who was your companion at that time?

A Dela Peña.

Q What particular place in the Poblacion were you at around 6:00 P.M. on July 21, 1985?

A We were at the side of the market.

x x x x x x x x

Q When you reached the market place what did you do?

A We parked our motorcycle.

Q Where did you park the motorcycle?

A South of the market.

Q And after parking the motorcycle where did you go with dela Peña?

A Dela Peña went to take coffee.

Q While dela Peña was taking coffee what were you doing?

A I was tying the items we have bought.

Q While tying the items that you bought (or) that you purchased(,) what things have you observed, if any?

A I have seen two men approaching.

Q You said two men were approaching(,) from what place have they come from?

A They came from the western gate of the market.

Q What else did you observe after seeing these two persons in the western gate of the market?

A When I saw these two persons(,) I notice that one of them is wearing a long sleeves jacket as they enter the western gate.

Q Where did they proceed after the two persons enter the western gate?

A They went infront of the canteen.

Q While they were infront of the canteen(,) what were the things that you observed?

A They brought out their guns.

x x x x x x x x

Q You said that they brought out their firearms(,) what firearms did you see?

A One long firearm and one short.

Q After they brought out their respective firearms(,) what happened next?

A When they brought out their firearms(,) they fired.

Q To whom did they fire?

A In the canteen.

Q After they fired at the carindaria(,) what did you observe?

A I saw Macario dela Peña fell (sic) down.

Q Is this Macario dela Peña the victim in this case?

A Yes, sir.

x x x x x x x x

COURT:

Q Who was the person who was holding a long firearm, will you go down and identify him?

A Witness tapped the shoulder of the person who identify (sic) himself as Edwin Nardo.

FISCAL CORPUZ:

Q As to the person who was holding a short firearm(,) will you tap the shoulder?

A Witness tapped the shoulder of the person who identified himself to be Willie[19] Ylarde.”[20]

The fact that Rogelio Fernandez did not give any statement to the police right after the incident does not cast veritable doubt on his credibility as averred by accused-appellants. We have held that the lapse of a considerable length of time before a witness comes forward to reveal the identities of the assailants does not taint the credibility of the witness and his testimony.[21] The initial reluctance of witnesses to volunteer information about a criminal case and their unwillingness to be involved in criminal investigations due to fear of reprisal are common occurrences and have been judicially declared to have no significant effect on their credibility. There is no law which requires that the testimony of a prospective witness should be reduced into writing in order that his declaration in court at a later date may be believed.[22]

The defense was utterly unable to weaken the reliability of the prosecution witnesses’ testimonies. Appellants capitalize on the supposed discrepancy between Micaela’s statement allegedly given to Patrolman Aquinde and her verbal testimony in court, and allege that persons other than the accused executed the assault. In view of her unwavering testimony in open court, despite the grilling cross- examination by the defense, and the failure of the defense to establish any proof that she was motivated by ill will or any other dubious reason, we sustain the discretion of the trial court to give her testimony full faith and credit. We have previously stated that “(s)worn

statements taken ex-parte are generally considered to be inferior to testimony given in open court.”[23]

Indeed, Micaela Suitos must have been in a state of shock at the time of the investigation. One of her daughters was killed in the carnage, another was wounded, while she and her husband were seriously injured necessitating their confinement in a hospital. Such condition of Micaela was confirmed by Defense Witness Aquinde himself:

Q Where did you conduct the first investigation of Claro Suitos and Micaela Suitos?

A At the Sacred Heart Hospital, Urdaneta, Pangasinan.

Q How did you find their conditions(?) (W)ere they coherent in answering the questions?

A I think they were still under shock during that time.

Q Did they understand your questions when you profounded (sic) to them?

A I do not know if they understand fully.”[24]

Furthermore, Aquinde even agreed to burn the alleged unfinished and unsigned statements of the Suitos spouses. This all the more confirms the fact that the spouses might not have been in their complete senses when investigated by Aquinde. Human memory may be temporarily paralyzed by an appalling tragedy, especially if it involves the witness’ family. Eventually, however, as the witness recovers from the trauma, memory regains its clarity.[25] This explains the experience of Micaela Suitos.

Having cast away any doubt on the credibility of the prosecution witnesses, we further sustain the trial court’s finding that there was conspiracy between the appellants in the perpetration of their evil acts. Well-entrenched is the rule that “conspiracy need not be proved by direct evidence of prior agreement on the commission of the crime as the same can be inferred from the conduct of the accused before, during and after the commission of the crime, showing that they acted in unison with each other, evincing a common purpose or design.”[26] In the case at bench, as emphatically attested to by Witness Rogelio Fernandez, both accused arrived together at the Umingan market through its western gate and proceeded to the front of the Suitos’ canteen. Then both drew out their respective firearms and simultaneously fired indiscriminately at the people in the canteen, killing four persons and wounding two others. These concerted acts of appellants reveal a consciously adopted plan and clearly demonstrate their joint design to exterminate. Conspiracy having been established, the act of one is the act of all.[27]

The sudden and unexpected attack upon the victims, without any provocation on their part, qualifies the crime with treachery.[28] Having been totally unaware of the impending aggression, there was absolutely no opportunity for the victims to seek cover,[29] resist[30] or retaliate.[31]

However, no proof was adduced as regards the extent and gravity of the injuries sustained by Spouses Micaela and Claro (Vic) Suitos. It was not proven that they would have died from their injuries had medical attention not been given shortly after the shooting. Hence, with respect to them, appellants may be held liable only for attempted murder.[32]

Crimes Committed Not Complex

The trial court ruled that the crime committed was the complex crime of multiple murder with double frustrated murder, defined and penalized under Article 248 in relation to Article 48 of the Revised Penal Code.[33] Under Article 48, a complex crime exists “when a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other.” We have held that where the killing was not shown to have been committed by a single discharge of firearms, the crime cannot be complex.[34]

In the autopsy reports of Dr. Thelma Busto, which were admitted in court by the defense counsel,[35] it appears

that each of the fatalities sustained a gunshot wound. In the case of Luzviminda Pudol, she sustained a fatal “(g)unshot wound (on the) left side of the face causing deformity of oral cavity”;^[36] as for Macario dela Peña, also a fatal “gunshot wound on the abdomen, mid area (epigastric region), 2 inches (in) length as the point of exit & pt. of entrance at left lateral side of lumbar region”^[37]for Clarence Suits, likewise a fatal “(g)unshot wound on the oral cavity as pt. of entrance & pt. of exit at nape of neck”;^[38]while for Anicia Sales, also a fatal “(g)unshot wound on the rt. lateral side, auxiliary region.”^[39] In addition, Witness Micaela Suits further attested that she and her husband Claro (Vic) were also injured by the shooting^[40] for which they were brought to a hospital in Urdaneta for treatment.

From the foregoing evidence, it is quite improbable that only a single act produced four fatalities and two injured persons, which would justify the single conviction meted out by the trial court to each accused.

Moreover, Witness Rogelio Fernandez categorically stated that both accused fired their respective firearms. He testified thus:

Q While they were in front of the canteen(,) what were the things that you observed?

A They brought out their guns.

x x x x x x x x

Q You said that they brought out their firearms(,) what firearms did you see?

A One long firearm and one short.

Q After they brought out their respective firearms(,) what happened next?

A When they brought out their firearms(,) they fired.

Q To whom did they fire?

A In the canteen.

His testimony was not rebutted by the defense. The ineludible conclusion is that the killing of the four victims and wounding of two others resulted from several discharges of firearms. When various victims expire from separate shots, such acts constitute separate and distinct crimes.^[41] Thus, appellants should be held liable for the separate crimes of four murders and two attempted murders.

We are cognizant of the rule that an accused, as established by evidence, may be convicted only of the crime charged in the information, which in this case was for a single crime of multiple murder with double frustrated murder, or of an offense which necessarily includes that which was charged or included therein.^[42] We note, however, that the information charging the appellants further states that the “accused, with intent to kill and with the qualifying circumstance of treachery armed with M16 Armalite Rifles, x x x (did) shoot and fire at in a sudden and unexpected manner, Claro Suits, Micaela Suits, Clarence Suits, Anicia Sales, Macario Dela Peña and Luzviminda Pudol x x x.” In effect, it imputed to the accused the commission of several felonies. Yet, appellants did not move to quash the information on the ground of multiplicity of charges. Neither did they object thereto at any other time. Consequently, such defect is deemed waived, and the Court may validly render judgment against them for as many crimes as were alleged and proven.^[43]

Proper Penalties Imposable

With the absence of any generic aggravating or mitigating circumstances, the penalty imposable for consummated murder is reclusion perpetua and, for attempted murder, prision mayor in its minimum period. Since four separate crimes of murder were committed, appellants are hereby sentenced to suffer four terms of reclusion perpetua. In addition, they shall suffer two indeterminate penalties of six months and one day of prision correccional minimum to eight (8) years of prision mayor minimum for the two attempted murders.

WHEREFORE, premises considered, the appeal is hereby DENIED. The challenged Decision is MODIFIED as follows: accused-appellants are hereby found GUILTY beyond reasonable doubt of the separate crimes of four (4) murders and two (2) attempted murders, and accordingly, upon each of them are imposed the following penalties: (a) four penalties of reclusion perpetua for the four murders, and (b) two indeterminate sentences of six months and one day of prision correccional minimum to eight (8) years of prision mayor minimum for the two attempted murders, which shall be served successively and in accordance with law. The assailed Decision, insofar as it orders the accused to indemnify jointly and severally the heirs of the deceased victims and Micaela Suitos in amounts therein stated, is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] In Criminal Case No. T-860.

[2] Presided by Executive Judge Hugo B. Sansano, Jr.

[3] Rollo, pp. 12-18.

[4] Ibid., p. 7.

[5] Dated "October __, 1989"; *ibid.*, pp. 8-9.

[6] Assailed Decision, p. 8; Rollo, p. 18.

[7] Rollo, p. 67 et seq.

[8] Assailed Decision, pp. 2-4; Rollo, pp. 12-14.

[9] Authorities were able to arrest Nardo only on July 29, 1987, or two years after the incident; while Ylarde remained at large until November 9, 1988, when he appeared before the trial court to file his bail bond.

[10] According to Witness Juan Andres Jr., Accused Ylarde is related to Reynaldo's employer, Jesus Ylarde, who is a cousin of the witnesses.

[11] Brief for the accused-appellants filed by Counsel Daniel C. Macaraeg, p. 1; Rollo, p.29.

[12] *People vs. Obzunar*, G.R. No. 92153, December 16, 1996, citing *People vs. Alimon*, G.R. No. 87758, June 28, 1996, and other cases.

[13] Assailed Decision, p.4; Rollo, p. 14.

[14] *People vs. Obzunar*, *supra*, citing *People vs. Ramos et al.*, G. R. No. 110600, August 7, 1996, and other cases.

[15] *Ibid.*, citing *People vs. Sotes*, G.R. No. 101337, August 7, 1996, and other cases.

[16] Should have been spelled "Clarence."

[17] Should have been spelled "Anicia."

[18] TSN, September 11, 1990, pp. 2-4.

[19] Should have been spelled "Willy."

[20] TSN, November 7, 1990, pp. 3-6.

- [21] *People vs. Reoveros*, 247 SCRA 628, 632, August 23, 1995.
- [22] *People vs. Cabuang*, 217 SCRA 675, 682, January 27, 1993, citing *People vs. de Guzman*, 194 SCRA 626, March 4, 1991.
- [23] *People vs. Lazaro*, 249 SCRA 234, 241, October 12, 1995, citing *People vs. Loveria*, 187 SCRA 47, July 2, 1990.
- [24] TSN, February 28, 1991, p. 5.
- [25] *People vs. Nimo*, 227 SCRA 69, 81, October 5, 1993.
- [26] *People vs. Obzunar*, *supra*, citing *People vs. Sotes*, *supra*.
- [27] *People vs. Panganiban*, 241 SCRA 91, 102, February 6, 1995, citing *People vs. Liquiran*, 228 SCRA 62, November 19, 1993.
- [28] *People vs. Cogonon*, G.R. No. 94548, October 4, 1996.
- [29] *People vs. Mendoza*, 236 SCRA 666, September 22, 1994.
- [30] *People vs. Maestro*, 222 SCRA 538, May 25, 1993.
- [31] *People vs. Buela*, 227 SCRA 534, November 8, 1993; *People vs. Verchez*, 233 SCRA 174, June 15, 1994; *People vs. Ledesma*, 250 SCRA 166, November 20, 1995.
- [32] *Ibid.*, citing *People vs. Maguikay*, 237 SCRA 587, 605, October 14, 1994.
- [33] Assailed Decision, p. 8; rollo, p. 18.
- [34] *People vs. Fabros*, 214 SCRA 694, 700, October 19, 1992, citing *People vs. Peralta*, 193 SCRA 9, January 18, 1991. See also *People vs. Toling*, 62 SCRA 17, January 17, 1975.
- [35] TSN, August 10, 1990, p. 2.
- [36] Exhibit “A”; records, p. 3.
- [37] Exhibit “B”; records, p. 4.
- [38] Exhibit “C”; records, p. 5.
- [39] Exhibit “D”; records, p. 6.
- [40] TSN, September 11, 1990, p. 3.
- [41] *People vs. Boniao*, 217 SCRA 653, 673, January 27, 1993, citing *People vs. Pineda*, 20 SCRA 748, July 21, 1967.
- [42] Sections 1 & 4, Rule 120, Revised Rules on Criminal Procedure.
- [43] *People vs. Ducay*, 225 SCRA 1, 19, August 2, 1993.

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