

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BONIFACIO ZAMORA, FELIX SALADAR, JULIO ALVARINO, RODOLFO JASA, AS PRINCIPALS; AND WILFREDO BARRIOS, AS ACCESSORY, ACCUSED, BON...

G.R. No. 101829. August 21, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

This Court finds occasion to reiterate the rule that positive and categorical declarations of eyewitnesses identifying the accused are given greater weight in evidence than the defenses of denial and alibi. Perfect congruence in the witnesses' testimonies is not required or expected, as long as their narrations concur on material points.

Statement of the Case

On July 8, 1987, Accused-appellant Bonifacio Zamora, along with four (4) others (three as co-principals and one as accessory) was charged by Asst. Provincial Fiscal Jorge D. Zerrudo before the Regional Trial Court, Branch 18, of Midsayap, Cotabato in an Information^[1] which reads:

“That on or about September 20, 1984, in the evening, at Barangay Bual Sur, Municipality of Midsayap, Province of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Bonifacio Zamora, Felix Saladar, and Julio Alvarino and Rodolfo Jasa, who are still at large, armed with bolos, with intent to kill, with treachery and evident premeditation, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully and feloniously attack, assault and hack MANDATU LUNTAYAN, SR., thereby hitting him several times on the different parts of his body, which hack wounds caused the instantaneous death of MANDATU LUNTAYAN, SR.

“That a day after the killing of Mandatu Luntayan, Sr., Wilfredo Barrios, Barangay Captain of Bual Sur, Midsayap, Cotabato, assured complainant and relatives of her husband that he would surrender respondents Julio Alvarino and Rodolfo Jasa, but instead of surrendering them to the authorities, with evident abuse of his public function, harbored and concealed said respondents Alvarino and Jasa, thereby facilitating and ensuring the escape of said Julio Alvarino and Rodolfo Jasa.”

Assisted by Atty. Visitacion Lavarias, Appellant Zamora and one of his co-accused, Felix Saladar, entered a plea of not guilty during the arraignment.^[2] Accused Alvarino, Jasa and Barrios remained at large.

A separate trial^[3] was held for Appellant Zamora for the reason that Saladar, who contracted leprosy, was declared unfit for trial.^[4]

After due trial, the court a quo rendered its Decision^[5] convicting accused-appellant of the crime of murder. The dispositive portion thereof reads:

“WHEREFORE, the Court finds the accused, Bonifacio Zamora, guilty beyond reasonable doubt of the crime

of Murder, defined and penalized under Article 248 of the Revised Penal Code, and the Court hereby sentences said accused to suffer the penalty of reclusion perpetua with costs.

“Bonifacio Zamora is directed to indemnify the heirs of his victim the amount of Fifty Thousand Pesos (P50,000) for the death of Mandatu Luntayan, Sr. and the amount of Ten Thousand (P10,000.00) Pesos as moral damages, or a total indemnity of Sixty Thousand Pesos (P60,000.00).”[6]

The Facts

Version of the Prosecution

The evidence for the prosecution consisted of: (1) the testimonies of Lucila Luntayan and Mandatu Luntayan, Jr., wife and son, respectively, of the victim, and Dr. Renato Sara as an expert witness; and (2) the sworn statement of Lucila and the medical and the death certificates of the victim issued by Dr. Sara. The trial court summarized the facts as presented by the prosecution as follows:

“It appears that the family of Mandatu Luntayan, Sr. resides at Bual Sur, Midsayap, Cotabato. In the evening of September 20, 1984, his wife, Lucila Luntayan, three (3) sons and two (2) daughters, were in their house at Bual Sur. They were waiting for Mandatu Luntayan, Sr. who went to the Poblacion of Midsayap. Past six o’clock that evening, the residents of the house of Mandatu heard the arrival of a tricycle along the Barangay Road near Mandatu’s house. Mandatu Luntayan, Jr. looked outside their house towards where he heard the tricycle stop. He saw his father, Mandatu Luntayan, Sr. being hacked by some people. Lucila and Mandatu, Jr. went out of their house to verify what was happening to Mandatu, Sr. They brought with them a flashlight. The place where the hacking took place along the Barangay road is about ten meters to their house. They had their flashlight focused on their father who was being hacked by three (3) persons. Mandatu, Sr. was bathe with blood. When they got nearer, they recognized the three persons hacking Mandatu, Sr. to be Julio Alvarino, Bonifacio Zamora and Felix Saladar. The Luntayan family has known the three, Alvarino, Zamora and Saladar, because they have been neighbors at Bual Sur for more than five (5) years already. Lucila and Mandatu, Jr. readily identified Bonifacio Zamora in court as one of the three men who hacked Mandatu, Sr. to death that evening of September 20, 1984. Mandatu, Sr. fell to the ground and the three men continued hacking him. Mandatu, Jr. approached his father but Bonifacio Zamora hacked him. Mandatu, Jr. was not hit because he was able to evade the hacking of Zamora by moving backward. Lucila shouted and the three men fled into the darkness. Lucila and Mandatu, Jr. went to Mandatu, Sr. who was still on the ground. They assisted Mandatu, Sr. and brought him to their house. In their house, Mandatu, Sr. told them that he was hacked by Pareng Julio, Boning and Felix. Mandatu, Sr. was serious and they loaded him on a Ford Fiera and brought him to Dr. Renato Sara’s clinic at Poblacion, Midsayap, Cotabato.”[7]

From the examination made by Dr. Sara, it appears that the deceased suffered seven hack wounds, more specifically:

“= Hacked wound from the left cheek to the left pinna, cutting of [sic] the left ear.

= Hacked wound, from the left lower jaw to the left side of the neck about seven inch[es].

= Hacked wound, left lower eyelid.

= Hacked wound, left knee, cutting all the potelia about five inch vertically.

= Hacked wound, left leg, just below to the knee about three inch[es] in length.

= Hacked wound, right leg, upper 3rd lateral aspect about five inch[es]

= Hacked wound, left side of the back, about 3 inches and 2 inch[es] in length.”[8]

The cause of death of Luntayan, Sr. was “massive loss of blood secondary to hack wounds.”[9]

Version of the Defense

The defense presented Emma Andan, a relative by affinity of Appellant Bonifacio Zamora; Aurelia Zamora, appellant's mother; and Appellant Zamora himself. The defense of appellant, consisting mainly of alibi, was summarized by the court a quo as follows:

"The defense of alibi of Bonifacio Zamora shows that at about 6:40 o'clock in the evening of September 20, 1984, he was in the house of his brother, Edilberto Zamora, at Bual Sur, Midsayap, Cotabato, listening to a radio program. His house and the house of his brother Edilberto are near each other. Also in the house of Edilberto are Luzviminda Zamora, Bonifacio's wife, Emma Andan, another neighbor, and Edilberto and his children. Aurelia Zamora, their mother, was not there when Bonifacio and his wife arrived. Aurelia was in Poblacion, Midsayap and was expected to arrive anytime. While they were listening to the radio program, Aurelia arrived and reported that Mandatu Luntayan, Sr. was killed. Edilberto and Emma Andan immediately went down the house and proceeded to the place where Mandatu, Sr. was killed. Bonifacio did not go with them and continued listening to the radio. He heard the shouts of a woman but did not mind them for he was used to hear shouts in their neighborhood. Near the place of the incident, Edilberto and Emma met Julio Alvarino who was holding a short bolo. They had some conversation. Edilberto and Emma saw Mandatu, Sr. being carried by his wife, Lucila, and son Mandatu, Jr. to his house. Mandatu, Sr. was still alive as they could hear him talk. After a short time, they saw Mandatu, Sr. brought to Poblacion, Midsayap for treatment. Edilberto and Emma did not go inside the house of Mandatu, Sr. They did not talk with Lucila or any of Mandatu Sr.'s family. After the Ford Fiera left for Midsayap, they also left and went home." [10]

Accused Zamora further averred that he had no quarrel or misunderstanding with the Luntayan family. He knew no reason why the victim's wife and son accused him of participating in the killing. He surmised that the only possible motive was his intervention in a previous quarrel between his first cousin Manolito Almanares and Mandatu, Sr., during which the latter hacked Manolito. [11]

The Trial Court's Ruling

The court a quo gave full credence to the testimonies of the victims' wife and son identifying accused-appellant as one of the assailants who fatally hacked Mandatu, Sr. It disposed of Zamora's alibi this wise:

"The house of Edilberto Zamora where Bonifacio Zamora claims to be at the time of the killing of Mandatu, Sr. is only about 100 meters from the scene of the crime. In a matter of two to three minutes, the distance could be easily reached. His pretense that he was listening to a radio program and not present at the scene of the incident is too shallow a reason to believe. He cannot even remember the radio program he was listening to." [12]

The trial court also found that the killing was attended by treachery, thus qualifying it to murder.

Assignment of Errors

The accused-appellant seeks either a reversal or a modification of the assailed Decision of the trial court by alleging that:

I

"The court a quo erred in convicting the accused-appellant of the crime charged despite failure of the prosecution to establish his guilt by proof beyond reasonable doubt.

II

“Assuming arguendo that accused-appellant Bonifacio Zamora is guilty, he should have been convicted only of homicide.”[13]

This Court’s Ruling

The appeal is partly meritorious. The Court finds Appellant Zamora guilty only of homicide, not murder.

First Issue: Sufficiency of Prosecution Evidence

Appellant submits that the evidence of the prosecution is not sufficient to convict him of the crime of murder. He argues that: (1) the testimonies and sworn statements of the prosecution witnesses are inconsistent on material points, thus, not worthy of full faith and credit; and (2) since the evidence presented is weak, the defense of alibi cannot be disregarded.[14]

The inconsistencies alleged by the appellant -- as to (1) the number of people the witnesses initially saw at the place of the incident, (2) who between the victim’s wife and son was holding the flashlight, and (3) the position of the victim at the time the witnesses approached -- are minor details which do not destroy the verity of the prosecution witnesses’ testimonies.

Minor inconsistencies in the testimonies of witnesses are negligible. Antithetically, they serve to strengthen the witnesses’ credibility and are taken as badges of truth rather than as indicia of falsehood. Variance in testimonies substantially erases suspicion that they have been rehearsed.[15] Moreover, a response to a question is not to be isolated in relation to other queries and answers thereto. Well-settled is the rule that testimonies must be taken in their entirety.[16]

In the case at hand, the eyewitnesses who saw the gruesome killing of their loved one cannot each be expected to recall completely every minute detail of the incident. Different persons have different reflexes which may produce varying reactions, impressions, perceptions and recollections. Their physical, mental, emotional and psychological conditions may also affect their recall of the details of the incident. No two individuals are alike in terms of powers of observation and recollection.[17] Each may give a different account of what transpired. One testimony may be replete with details not found in the other. But taken as a whole, the versions must concur on material points.

Significant in the testimonies of both Lucila and Mandatu, Jr. is that both of them positively attested to having actually seen Alvarino, Saladar and Zamora hack the victim; that the three assailants used bolos; that Zamora also attempted to hack Mandatu, Jr. when the latter tried to get near his father; and that all the accused ran away after Lucila shouted for help.

The pertinent portions of Witness Lucila’s account in court, positively identifying the accused-appellant as one of her husband’s assailants, are hereinbelow quoted:

Q

Now, can you tell us what happened on that particular evening of Sept. 20, 1984?

A

On Sept. 20, 1984 at 6:30 p.m., my children and I were in the house waiting for my husband to arrive from Midsayap. Later on, the tricycle passed by and we noticed that a group of people gathered on the road and my children and I went out and decide[d] to look into and we brought with us a flashlight.

Q

What did you observed [sic] from the group of people gathered on the roadside?

A

When I directed my flashlight on the group of men on the road, I saw Julio Alvarino, Felix Saladar, Bonifacio Zamora, hacking my husband, and when my son attempted to go near my husband, he was met by Bonifacio Zamora and directed his bolo to my son with an attempt to hack him also, but my son was able to evade it by running away.

Q

You said that you saw actually these three persons named Felix Saladar, Bonifacio Zamora, and Julio Alvarino hacking your husband?

A

Yes, Ma'am.

Q

You saw them hacking at the same time?

A

When I arrive, I still saw Zamora hacked [sic] the knee of my husband, Ma'am, the two were standing at the back of Bonifacio Zamora.

Q

In other words, you only saw Zamora hacking the knee of your husband, and you did not see the others hacking your husband?

A

My son and I saw the final hacking of Bonifacio Zamora on the knee of my husband.

Q

And at a distance of around 6 meters and it was dark according to you, can you clearly see them: Julio Alavarino, Felix Saladar, and Bonifacio Zamora?

A

I saw them because I was holding a flashlight, Ma'am."[18]

Her testimony quoted above substantially corroborates her declarations in her sworn statement[19] taken two (2) days after the incident:

6.Q-

Will you relate to me in detail: How did you able to witness [sic] the killing of your husband?

7.[A]-

On that aforementioned time and date of September 20, 1984, we were in our residence waiting for my husband to arrive from Midsayap, and since we were expecting his arrival our concentration focus [sic] to the sound of every tricycle that passesby [sic] on that evening we were observant for the arrival of my husband and

we heard some unusual sound coming from the Barangay Road that as if somebody fell down the ground, and I and my son Mandatu Luntayan Jr. look through the opening of our house just to verify what's going on along the road, and we observed that there were several people at the place and a certain flashlight lighting at them, and at this junction I and my son decided to verify what's going on and we brought our flashlight proceeding to the place.

8.Q-

What transpired next?

A-

As we were near the road I used the flashlight and lighted the people around, and I could not get mistake [sic] when my light focus to the one who is lying down the road since I really identify that it was my husband Mandatu besides from the description of his clothings, and there that I saw our "compare" Julio Alvarino with his companion Bonifacio Zamora and Felix Saladar armed with a bolo each of them hacking my husband on [his] knee."

Mandatu, Jr., for his part, testified:

Q

What attracts [sic] your attention towards the place where your father was ambushed or was hacked?

A

The passing of the tricycle.

Q

When the tricycle passed, what did you see or hear?

A

I peeped at the window to see as to who arrives, sir, and I see [sic] my father.

Q

What was your father doing when you saw him - what was happening?

A

He was hacked, sir.

Q

When you see [sic] that your father was hacked, what did you do?

A

We took a flashlight and proceeded to the place.

Q

Who were your companions?

A

My mother and my younger borthor [sic], sir.

Q

Why did you proceed to that place?

A

To verify whether my father is [sic] dead or not.

Q

And what did you see when you went to the place where your father was hacked?

A

We saw three persons hacking my father, sir.

Q

Who were these three persons?

A

Julio Alvarino, Bonifacio Zamora, and Felix Saladar, sir.

Q

What did these three persons use in hacking your father?

A

Bolos, sir.

Q

At the time that your father was hacked, what was his position?

A

He was lying down, sir.

Q

How could it be possible that you identified these three accused when you said that it was a dark night?

A

Because I recognized them, ma'am.

Q

Yes, but according to you it was dark?

A

Because we were neighbors for a long time and I can even recognize their voices, even only through their voices, I could recognize them considering that we were neighbors for quiet [sic] a long time already, ma'am.

COURT TO MANDATU LUNTAYAN JR:

You never saw them?

M. LUNTAYAN JR:

We saw them because we have a flashlight, sir.”[20]

There appears to be no ill motive on the part of the prosecution eyewitnesses to falsely implicate the accused of direct participation in the crime. The anemic statement of appellant that the victim may have resented his act of pacifying a previous quarrel between his first cousin and said victim cannot be given any weight. As basis for concluding that the witnesses would prevaricate and cause damnation to the accused, it is inadequate.[21]

The court a quo found the testimonies of the prosecution witnesses worthy of belief and we find no reason to conclude otherwise. This Court accords great respect to and treats with finality the findings of the trial court on the matter of credibility of witnesses, which includes assigning value and weight to their testimonies, absent any palpable error or arbitrariness in their findings. The reason behind this rule is that trial courts have the opportunity, which the appellate courts are deprived of, to observe directly the witnesses’ deportment and manner of testifying [22]

While assailing the credibility of the prosecution witnesses, the appellant also advanced the defense of alibi. The court a quo, however, rejected this. Time and again, this Court has held that in order for alibi to prosper, it is not enough to prove that appellant was somewhere else when the offense was committed; it must likewise be demonstrated that he was so far away that it was not possible for him to have been physically present at the place of the crime or its immediate vicinity at the time of its commission.[23] Zamora claims that when the killing took place, he was at his brother’s house about 100 meters away from the crime scene.[24] Such short distance could not preclude physical impossibility for the appellant to have been at the place where the victim was attacked. Judicial notice may be taken of the fact that any normal grown-up can easily cover such distance in a few minutes. Appellant showed no disability or any other reason that would have prevented him from doing so.

Hence, the trial court correctly ruled thus:

“The Court finds the alibi of Bonifacio Zamora untenable in view of the clear, direct and positive identification made by the witnesses of the prosecution. Lucila and Mandatu, Jr. have clearly, positively and directly identified Bonifacio Zamora as one of those who hacked to death Mandatu, Sr. in the evening of September 20, 1984. In *People vs. Obando, et al*, G.R. No. 72742, February 12, 1990, the Supreme Court, speaking thru Chief Justice Fernan, said that ‘As a rule, alibi is a weak defense and cannot prevail over the positive testimony of truthful witnesses. The reason is that it is easy of fabrication. Alibi is so easily manufactured and usually so unreliable that it can rarely be given credence. To establish an alibi, a defendant must not only show that he was present at some other place about the time of the alleged crime, but also that he was at such other place for so long a time, that it was impossible for him to have been at the place where the crime was committed, either before or after the time he was at such other place. Furthermore, an alibi should be proved by probable evidence which reasonably satisfies the court of the truth of the defense.’”[25]

To bolster the claim of alibi, the defense presented Emma Andan and Aurelia Zamora who claimed to have been with the appellant on that tragic night. We likewise hold such testimonies unworthy of belief. Alibi is implausible as a defense when it is established mainly by the accused himself and his immediate relatives.[26]

Besides being inherently weak, the accused’s alibi cannot prevail over the positive identification made by the prosecution witnesses that Appellant Zamora was one of the assailants.[27] We reiterate our pronouncement that positive identification, where categorical and consistent, almost always prevails over alibi and denial. These two defenses, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law.[28]

In addition, relatives of the victim who witnessed the brutal slaying usually strive to remember the faces of the

malefactors and seek the latter's conviction rather than that of innocent ones.[29]

Second Issue: Homicide or Murder?

The appellant disagrees with the ruling of the trial court that the killing of the victim was attended by treachery. He contends that the testimonies of the prosecution witnesses are bereft of statements that would establish the existence of this qualifying circumstance.[30]

The essence of treachery is that the attack comes without warning and in a swift, deliberate and unexpected manner, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape.[31] It must be shown that the offender employed means, methods or forms which tend directly to ensure the execution of his criminal objective without risk to himself arising from the defense which the offended party might make.[32]

Thus, because of the gravity of the resulting offense, treachery must be proved as clearly as the crime itself. Treachery cannot be established from mere conjectures. Absent any particulars as to the manner in which the aggression commenced or how the act which resulted in the death of the victim unfolded, treachery cannot be appreciated.[33]

Prosecution Eyewitnesses Lucila and Mandatu, Jr. failed to give a graphic account as to how the attack started and the position of the victim when he was initially hacked. They saw the incident only at the point when the victim was already being hacked. Their testimonies are devoid of details showing the manner of attack: its suddenness or unexpectedness, the relative positions of the victim and his assailants, and the defenselessness of the victim, among others. What they conveyed in court does not indicate that the attack was swift, deliberate and unexpected or that it rendered the victim defenseless and unable to escape. No evidence was presented to show who initiated the incident or how the attack was begun.

Therefore, we hold the appellant guilty only of the lesser felony of homicide, defined and penalized under Article 249 of the Revised Penal Code, without any aggravating or mitigating circumstance.

The trial court directed the appellant to pay the amount of P10,000.00 as moral damages to the heirs of Mandatu, Sr. However, we scanned the entire record for evidence to support the grant thereof and found it wanting. Moral damages may be awarded in favor of the heirs of the victim only upon sufficient proof of "physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury." [34] Absent any basis, we have to set aside the grant of moral damages.

WHEREFORE, in view of the foregoing considerations, the Decision appealed from is hereby MODIFIED. Accused-appellant Bonifacio Zamora is found GUILTY of the crime of HOMICIDE and SENTENCED to an indeterminate penalty of 10 years of prision mayor as minimum to 17 years and 4 months of reclusion temporal as maximum. We AFFIRM the order of the trial court requiring appellant to pay P50,000.00 as indemnity to the heirs of Mandatu Luntayan, Sr.

SO ORDERED.

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

[1] Records, pp. 2-3.

[2] See Order dated October 14, 1987 of Acting Presiding Judge Emmanuel D. Badoy; records, p. 37.

[3] In Criminal Case No. 716.

[4] Records, pp. 104 and 113.

[5] Ibid, pp. 148-157; penned by Executive Judge Zain B. Angas.

[6] Ibid., pp. 156-157.

[7] Decision, pp. 3-4; records, pp. 150-151.

[8] Medical Certificate dated Sept. 20, 1984; records, p. 9.

[9] TSN, May 9, 1989, p. 12. The Certificate of Death issued by Dr. Renato C. Sara on Jan. 18, 1984 stated the cause of death as:

“Immediate cause: a. Hemorrhage, Severe

Antecedent cause: b. Multiple hacked [sic] wounds”

[Records, p. 12.].

[10] Decision, pp. 5-7; records, pp. 152-154.

[11] TSN, March 22, 1990, pp. 4-5, 7-9.

[12] Decision, pp. 7-8; records, pp. 154-155.

[13] Appellant’s Brief, p. 1; Rollo, p. 153.

[14] Ibid., p. 9; Rollo, p. 161.

[15] People vs. Dinglasan, G.R. No. 101312, pp. 15-16, January 28, 1997. See also People vs. Ondalok, G.R. No. 95682-83, p. 9, May 27, 1997.

[16] Francisco, R.J., Evidence, 2nd ed., p. 569. See also People vs. Ferrer, 255 SCRA 19, 34, March 14, 1996; People vs. Gabas, 233 SCRA 77, 84 June 13, 1994.

[17] People vs. Pareja, G.R. No. 88043, pp. 10-11, Dec. 9, 1996.

[18] TSN. May 5, 1988, pp. 3, 5-6.

[19] Records, p. 13.

[20] TSN, May 9, 1989, pp. 17-18, 23, 24, 27, 29-31.

[21] People vs. Jose, 250 SCRA 319, 324, November 24, 1995.

[22] People vs. Sumbillo, G.R. No. 105292, pp. 14-15, April 18, 1997; People vs. Ombrog, G.R. No. 104666, pp. 11-12, February 12, 1997; People vs. Dinglasan, G. R.. No. 101312, pp. 13-14, January 28, 1997; People vs. Layno, G.R. No. 110833, p. 14, November 21, 1996; People vs. Cogonon, G.R. No. 94548, pp. 13-14, October 4, 1996.

[23] People vs. Anonuevo, G.R. No. 112989, p. 14, September 18, 1996; People vs. Ferrer, 255 SCRA 19, 35, March 14, 1996. See also People vs. Paglinawan, 233 SCRA 494, 501, June 28, 1994; People vs. Torres, 232 SCRA 32, 39-41, April 28, 1994; and, People vs. Sabellano, 198 SCRA 196, 208, June 5, 1991.

[24] TSN, Sept. 13, 1989, p. 6; Nov. 9, 1989, pp. 5-6; March 22, 1990, p. 6.

[25] Decision, pp. 7-8; records, pp. 154-155.

[26] People vs. Anonuevo, supra, p. 16. See also People vs. Sancholes, G.R. No. 110999 and 111000, April 18, 1997; People vs. Quinevista, Jr, 244 SCRA 586, 594, May 31, 1995; People vs. Paglinawan, 233 SCRA 494,

501, June 28, 1994; *People vs. Sabellano*, 198 SCRA 196, 209, June 5, 1991; *People vs. Torres*, 232 SCRA 32, 41, April 28, 1994.

[27] *People vs. Caritativo*, 256 SCRA 1, 9, April 1, 1996; *People vs. Quinevista, Jr*, *supra*, p. 594.

[28] *People vs. Datun*, G.R. No. 118080, p. 9, May 7 1997; *People vs. Sumbillo*, G.R. No. 105292, p. 23, April 18, 1997; *People vs. Azugue*, G.R. No. 110098, p. 14, February 26, 1997; *People vs. Ombrog*, G.R. No. 104666, p. 15, February 12, 1997.

[29] *People vs. Obzunar*, G.R. No. 92153, p. 12, December 16, 1996, citing *People vs. Ramos*, et al., August 7, 1996 and *People vs. Sotes*, G.R. No. 101337, August 7, 1996.

[30] Appellant's Brief, pp. 10-11; Rollo, pp. 162-163.

[31] *People vs. Ombrog*, G.R. No. 104666, pp. 15-16, February 12, 1997; *People vs. Dinglasan*, G.R. No. 101312, pp. 23-24, January 28, 1997; *People vs. Layno*, G.R. No. 110833, pp. 19-20, November 21, 1996; *People vs. Isleta*, G.R. No. 114971, pp. 11-12, November 19, 1996; *People vs. Cogonon*, G.R. No. 94548, pp. 14-15, October 4, 1996; *People vs. Anonuevo*, G.R. No. 112989, p. 17, September 18, 1996; *People vs. Caritativo*, 256 SCRA 1, 13-14, April 1, 1996.

[32] *People vs. Isleta*, G.R. No. 114971, pp. 11-12, November 19, 1996; *People vs. Cogonon*, G.R. No. 94548, pp. 14-15, October 4, 1996.

[33] *People vs. Obzunar*, G.R. No. 92153, pp. 26-27, December 16, 1996; *People vs. Anonuevo*, G.R. No. 112989, p. 17, September 18, 1996. See Also *People vs. Tiozon*, 198 SCRA 368, June 19, 1991, 388; *People vs. Ablao*, 229 SCRA 280, January 14, 1994; *People vs. Cordero*, 217 SCRA 1, 7, January 5, 1993. See also *People vs. Patamana*, 250 SCRA 603, 613, December 4, 1995.

[34] Article 2217 of the Civil Code. See *People vs. Caballes*, G.R. No. 102723-24, June 19, 1997 and *People vs. Cayabyab*, G.R. No. 123073, June 19, 1997.

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