

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. REYNALDO “REGIE” SUMBILLO, ALEX VELARGA AND ABRAHAM
“ABLING” ADORACION, ACCUSED-APPELLANTS.**

G.R. No. 105292. April 18, 1997

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For their defense, appellants plead denial and alibi. However, such defenses are inherently weak and cannot overturn clear and positive testimony locating them at the locus criminis and identifying them as the assailants.

This rule is reiterated in this appeal certified and elevated by the Court of Appeals to this Court pursuant to Section 13, Rule 124[1] of the Rules of Court. Appellants assail the Decision, dated May 20, 1992 of the Appellate Court in C.A.-G.R. CR. No. 06251, affirming the conviction of Appellants Reynaldo “Regie” Sumbillo, Alex Velarga and Abraham “Abling” Adoracion for the crime of murder and increasing the penalty imposed to *reclusión perpetua*.

Appellants were charged with murder under an Amended Criminal Complaint which reads:[2]

“That on or about 7:00 o’clock in the morning of July 30, 1983 at Brgy. Tigbauan, Municipality of Maasin, Province of Iloilo, Philippines and within the preliminary jurisdiction of this Honorable Court the above-named accused, with evident premeditation (sic), conspiring and helping with one another, with deliberate intent to kill, with treachery and with the use of superior strength, did then and there, willfully, unlawfully and feloniously, armed with the long guns, attacked, assault and shot CESAR CLAVEJO, thereby hitting the latter at the different parts of his body, causing his immediate death.

Death Certificate is hereto attached.

CONTRARY TO LAW.”

Upon arraignment, the accused pleaded “not guilty” to the charge.[3] After trial, the Regional Trial Court of Iloilo City, Branch 29,[4] rendered a decision convicting them of murder. The dispositive portion of the decision reads:[5]

“WHEREFORE, finding the three (3) herein accused, Reynaldo ‘Regie’ Sumbillo, Alex Velarga and Abraham ‘Abling’ Adoracion, GUILTY beyond reasonable doubt of the killing of Cesar Clavejo, qualified by treachery to murder, without any mitigating or aggravating circumstance, they are hereby sentenced to suffer an indeterminate penalty of fourteen (14) years, ten (10) months and twenty (20) days as minimum to twenty (20) years as maximum; to indemnify jointly and severally the heirs of the said Cesar Clavejo in the amount of P30,000.00, plus P4,150.00 as actual damages; and to pay the costs.

SO ORDERED.”

On appeal, the Twelfth Division of the Court of Appeals[6] affirmed appellant’s conviction, but modified the penalty by sentencing the appellants to *reclusion perpetua*. Instead of entering judgment, however, the Court of Appeals correctly certified the case and elevated the entire record thereof to this Court. The dispositive portion of the CA Decision reads:[7]

“WHEREFORE, finding no reversible errors committed by the trial court, We AFFIRM the conviction of all accused-appellants but the appealed decision is hereby MODIFIED to the effect that accused-appellants are sentenced to suffer imprisonment of reclusion perpetua and ordered to indemnify the heirs of the deceased Cesar Clavejo in the amount of P50,000.00. However, instead of entering judgment and pursuant to Section 13, Rule 124 of the Rules on Criminal Procedure, as amended, let the entire records of the above-entitled case be certified and elevated to the Honorable Supreme Court for review.

SO ORDERED.”

Hence, the appeal is now before this Court.

The Facts According to the Prosecution

The facts as presented by the prosecution and adopted by both the trial and the appellate courts, are as follows:[8]

“Evidence for the prosecution principally revolved around its two witnesses, namely: Basilia Clavejo and Erlinda Estares, the sister-in-law and the sister of deceased victim Cesar Clavejo, respectively. The trial court based the conviction of accused-appellants on the testimonies of said witnesses, to wit:

'xxx xxx xxx

The testimonies of these two witnesses, in common, show that in the morning of July 30, 1983, at about 7:00 o'clock, while they and Cesar Clavejo were walking single file in Barangay Tigbauan, Maasin, Iloilo, to the ricefield of one Caridad Mates Salcedo which they were to weed that Saturday, there was suddenly a gunshot and Cesar Clavejo shouted that he was hit. x x x (He) held his stomach and was stooping or bent forward. Then there followed successive gunshots. The three accused, Reynaldo 'Regie' Sumbillo, Alex Velarga and Abraham 'Abling' Adoracion with one Dionito Mata (who is still at large) then went near xxx Clavejo where he lay. They were all armed with long firearms. After having gone near and after Reynaldo 'Regie' Sumbillo told Erlinda Estares not to tell anyone that they killed Cesar Clavejo, otherwise she also would be killed, the four ran away. Cesar Clavejo died with wounds stated in Exhibit 'A'. That same day, Rudy Clavejo went to the poblacion of Maasin, Iloilo, to report the killing and went back to Barangay Tigbauan with policemen and army men that same morning. Also on the same day the three accused were arrested for the killing of Cesar Clavejo.

Basilia Clavejo testified that all the three (3) accused whom she pointed out in court, are known to her being all residents of, and are her neighbors in, Tigbauan, Maasin, Iloilo; that Dionito Mata approached Cesar Clavejo and shot him; that there were successive gunfire and she ran and hid behind a banana tree in a grove by bank of the creek and saw Erlinda go to Cesar who she held in her lap; and that she saw the three (3) accused approach Erlinda and Cesar and heard the statement to Erlinda that she should not tell anyone that they killed Cesar or she would be killed.

Erlinda Estares testified that she knows all the three (3) accused who are her neighbors, Reynaldo 'Regie' Sumbillo having been her classmate, and Dionito Mata who is her first cousin, their fathers being uterine brothers; that after the first gunshot she looked around and saw Dionito Mata, and the three (3) herein accused all with long firearms; that Dionito Mata went near Cesar Clavejo; that she did not actually see who shot Cesar; that Reynaldo Sumbillo went near her and told her not to tell anybody that they killed Cesar Clavejo; and that they ran away. She testified also that the police that same day interviewed her in Tigbauan about the killing of Cesar Clavejo.'

(Decision, pp. 2-3, Original Records)

Dr. Vivencio Tobias, Senior Resident Physician of the Pang-alalang Pagamutan Ramon Tabiana of Cabatuan, Iloilo, issued a certification which reads:

‘August 11, 1983

CERTIFICATION

TO WHOM IT MAY CONCERN:

This is to certify that on examination of the cadaver of Cesar Clavejo on July 30, 1983 at the Somo Funeral Homes, Ma-asin, Iloilo the following physical injuries were noted:

1. Gunshot wound, point of entrance, mid cheek right with surrounding powder burns
2. Gunshot wound, point of exit, left occipital area
3. Gunshot wound, point of entrance, anterior abdominal wall 4 cms. to the right and 2 cms. below the umbilicus
4. Gunshot wound, 11 cms. to the left of the umbilicus

All gunshot wounds of entrance measure 9 mm. in diameter.

This certification is issued upon the request of p/Sergeant Reynaldo E. Sorongon, INP Sub-Station Commander, Ma-asin, Iloilo.

VIVENCIO S. TOBIAS, M.D.

Senior Resident Physician’

(Exhibit ‘A’ & ‘A-1-)’”

Version of the Defense

Appellants deny shooting the deceased, raising alibi as their defense. Appellant Velarga testified that at about 7:00 a.m. of July 30, 1983, he was at his uncle Wenceslao Moreno’s house, where he was staying while helping at his uncle’s farm. It was more than one kilometer away from the scene of the crime[9] with no connecting road.[10] Witness Herminigildo Adoracion corroborated this, testifying that at about the same time, he saw Appellant Velarga at Moreno’s house.[11]

Appellant Adoracion also denied killing Cesar, stating that he was clearing rice paddies with his brother Pablo in the farm at the time of the shooting. Their farm was about one kilometer from the crime scene.[12] His story was corroborated by his father Doroteo, who testified that, on the day and time of the killing, from his house which was 120 meters away, he saw his sons, Pablo and Appellant Adoracion, clearing rice paddies. He said that this was 200 meters away from the crime scene, but that it was inaccessible because there was no connecting road.[13]

Appellant Sumbillo testified that on that day, at about 7:00 a.m., he was with his uncle Jose Jarden, harrowing the latter’s ricefield.[14] This was corroborated by Witnesses Jesus Alforo, Jose Jarden, and Felomino Masculino. According to Jarden, his farm was more than one kilometer from the scene of the crime.[15]

Alforo, the owner of a field adjoining Jarden’s, testified that at about 7:00 a.m. of that day, while plowing his farm, he saw Appellant Sumbillo plowing Jarden’s field.[16] Felomino Masculino also testified that, at about 6:30 a.m. of that day while he was cutting bamboo on the upper portion of an overlooking hill, he saw Appellant Sumbillo working on Jarden’s field. Appellant Sumbillo was still in the field when Masculino heard gunshots; the latter even shouted to the former, “What is that gunfire?”[17]

Appellant Velarga testified that when he was arrested at his house at around 2:00 p.m. of the same day, a certain Sgt. Tabang of the Philippine Army searched their house for any hidden firearm but found none.[18]

Witness Marcelino Jarden testified that at about 7:00 a.m. while he was at his farm, he saw Estares and Basilia inside a nipa hut with Gorgonio Clavejo about half a kilometer from the crime scene. Ten minutes after he heard gunshots, the two screaming women ran to the scene of the crime.[19]

The appellants also aver that they had been wrongfully arrested by the combined group of the INP and Philippine Army because Rudy Clavejo, who reported the killing and accompanied the arresting officers, had no time to ask Witnesses Estares and Basilia Clavejo about the identity of the victim's killers.

The police blotter (Exh. "5") [20] stated that the victim was reported to have been shot dead by an "unknown person or persons" (Exh. "5-b" and "5-b-1"). Policeman Eliseo Lope of the Maasin Police Station testified that Barangay Tigbauan, Maasin, Iloilo, the scene of the crime, was rebel-infested. The police had no suspect and warrant of arrest when they left for Brgy. Tigbauan, and appellants were merely pointed out by Rudy Clavejo.[21]

Sgt. Reynaldo Sorongon testified that he had filed an Amended Complaint, dated September 1, 1983 changing one of the co-accused from "Eddie Adoracion" to "Abraham Adoracion." [22]

The appellants further contend that they had been falsely accused of killing the victim due to a land dispute between their families. Appellant Sumbillo is third cousin to Dionito Mata (who was and is still at large) and Appellant Velarga, and second cousin to Appellant Adoracion.[23]

The families of the victim and of Dionito Mata had a misunderstanding over a parcel of land. Said land, which used to be tilled by the victim's brother, was bought by Appellant Sumbillo's uncle, Silvestre. A relative of Appellant Sumbillo was also killed allegedly by the victim's brother. Two months after, Dionito Mata's father Ramon was also killed allegedly by a relative of the victim.[24]

Appellant Sumbillo denied pointing a gun at Prosecution Witness Estares because she was his classmate and aunt in the third degree.[25] He also denied killing Cesar as the latter was his uncle.[26] Such allegations, he said, were only fabrications because the Clavejos were only trying to get back at his uncle Silvestre with whom he was living.[27]

Appellant Adoracion's father, Doroteo, also claimed that when he visited his son in the municipal building in Maasin, Iloilo and again in Cabatuan, he and Victor Sumbillo, father of Appellant Reynaldo, were told by Sgt. Reynaldo Sorongon, the Chief of Police, that their sons' case could be settled for P6,000.00.[28] He and Victor refused to pay because their sons were innocent.

The Trial Court's Ruling

The trial court refused to believe appellants' alibi and denial. Even if the situs of the shooting was rebel-infested, it did not necessarily follow that the victim's killing was ascribable to the rebels. Their alibi did not establish complete physical impossibility because the places where appellants allegedly were working/staying, were all within the same barangay and only about one kilometer away from the scene of the crime.

On the other hand, appellants were positively identified by the prosecution witnesses whose story was supported by physical evidence. The prosecution witnesses were not shown to have been falsely motivated to testify, and the apparent inconsistencies in their testimonies were sufficiently explained in open court.

It was proven that appellants conspired in the victim's killing -- they were at the scene of the crime where they shot the victim with long firearms, approached him to make sure that he was dead, and then threatened Erlinda at gun point. They acted in concert in furtherance of their common criminal intent to kill the victim.

Issues

In their brief, appellants assign the following errors allegedly committed by the Appellate Court, viz.:^[29]

- “1. In sustaining the erroneous finding of the trial court that accused-appellants were positively indentified (sic) by prosecution witnesses as the ones who actually shot the victim Cesar Clavejo;
2. In sustaining as credible and trustworthy the alleged eye-witness accounts of prosecution witnesses Erlinda Estares and Basilia Clavejo despite presence of serious inconsistencies in these two accounts and that their individual accounts did not corroborate each other in their material and substantial respects insofar as accused-appellants are concerned;
3. In sustaining the serious misapprehension of the trial court of the existence of the family feud between the families of the accused on one hand and the family of the victim on the other hand as motive of the killing of the victim instead of as motive of said two witnesses in testifying falsely against accused-appellants; and
4. In affirming the erroneous conviction of accused-appellants despite of presence of substantial facts and circumstances that seriously cast doubts on whether or not accused-appellants were indeed really the ones who killed the victim Cesar Clavejo.”

Simply put, appellants aver that (1) they were not positively identified by prosecution witnesses; (2) the prosecution witnesses’ testimonies were not deserving of full faith and credence; and (3) the family feud was sufficient ill motive for said witnesses to wrongly testify against them.

The Court’s Ruling

The appeal is bereft of merit.

The Trial Court’s Factual Findings & Assessment of Credibility of Witnesses

The time-honored rule is that the trial court’s factual findings^[30] and assessment of credibility of witnesses,^[31] especially when affirmed by the Court of Appeals, are entitled to great weight and are even conclusive and binding on this Court, barring arbitrariness and oversight of some fact or circumstance of weight and substance.

Evaluation of the credibility of witnesses is a matter that peculiarly falls within the province of the trial court as it had the opportunity to watch and observe the demeanor and behavior of the witnesses at the time of their testimony.^[32] Similarly, assigning value and weight to the testimonies of witnesses is also within its jurisdiction^[33] Thus, the trial court’s decision sustaining the accuracy of the witnesses’ identification of the offenders should be given weight by this Court, specially because it had been affirmed by the Court of Appeals.^[34] In the case at bench, appellants have failed to provide a substantial argument to warrant a departure from this rule, nor have they pointed to a matter of weight or substance that had been overlooked by the trial and appellate courts.

Identification of Appellants

Appellants strenuously contend that the prosecution witnesses did not see who shot the deceased. But the said witnesses, despite their initial confusion, positively and clearly testified that Dionito Mata had shot the deceased at close range; that Appellant Sumbillo had threatened to kill Erlinda at gunpoint if she divulged their identities as the deceased’s assailants; and that Appellants Velarga and Adoracion had been the companions of Mata and Appellant Sumbillo.

Appellants misconstrue Erlinda’s^[35] and Basilia’s^[36] statements on the witness stand -- that they did not know who had shot the deceased -- as proof of the absence of positive identification. But a perusal of the stenographic notes shows that this is not so. They might have been unable to pinpoint who among the appellants and Mata had fired the shot that hit the deceased, or to say if Mata had fired the fatal shot at close range. What is important is

that appellants were positively identified by both prosecution witnesses to have been at the scene of the crime, simultaneously firing their weapons and acting together to kill the victim.

That one “Eddie Adoracion” was improvidently impleaded in the original complaint and information does not detract from the credibility of Erlinda’s testimony. This mistake can be explained by the fact that the criminal complaint was signed and filed by P/Sgt. Reynaldo Sorongon, not Erlinda. Sgt. Sorongon obviously based it on Erlinda’s sworn statement, dated July 31, 1983 naming Eddie Adoracion as one of the assailants. As will be shown later, this error had been sufficiently explained during Erlinda’s testimony.

Alleged Discrepancy in the Prosecution Witnesses’ Testimony

Despite the alleged serious discrepancy as to which “Adoracion” was involved in the killing, the principal witnesses of the prosecution did not contradict each other in any major respect. Basilia’s sworn statement (Exh. “1”)[37] named Appellant Abraham “Abling” Adoracion as one of the assailants while Erlinda’s statement (Exh. “3”)[38] named one “Eddie Adoracion” and Appellant Sumbillo as the ones who had threatened her not to reveal their identities. Both statements were taken on July 31, 1983. Then, in her affidavit taken during the preliminary investigation on September 8, 1983, Erlinda said that it was Mata who had threatened her at gunpoint (Exh. “4”).[39]

The bases of the alleged discrepancies between their testimonies are the affidavits executed by Basilia and Erlinda. But, as found by the trial court, both affidavits are “meager in details and rather perfunctorily done.” Said the trial court:[40]

“x x x Evident in both exhibits (referring to Exh. “1” and Basilia’s affidavit during preliminary investigation, Exh. “2”) is the fact that the witness merely waited for the investigator to ask and elicit the facts. She had no control of the investigation or proceeding and whatever deficiencies and inaccuracies there are in the said affidavits, are not entirely traceable to her. Evident also is the fact that these investigations were in the local dialect and translated into English in the final forms, a language the witness is not well-schooled in and, therefore, the attendant inaccuracies and deficiencies in the statements. Nevertheless, a comparison of the(s) two sworn statement with her testimony in open court shows that in their essentials all three statements agree. Thus, as (to) the time: at about 7:00 o’clock in the morning; as to (the) place: while the three of them, herself, Erlinda Estares and the victim, were walking single file with Cesar Clavejo as the rearmost, to go to the farm of Caridad Mates to work there; as to the shooting: there were successive gunshots and Cesar Clavejo was hit; as to the identification of the assailants and the weapons(;) she saw and recognized the three (3) accused with Dionito Mata, all of whom are her barangay-mates, all armed with long firearms; and as to her reaction: in fear she ran and hid herself but she saw Erlinda Estares go to Cesar to help the latter and that the four persons (the accused and Dionito Mata) were near Erlinda and Cesar.

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“x x x If there are discrepancies in Basilia Clavejo’s testimony, these are in the details, that is , on estimates as to distances between places and the situations or locations of persons, and estimates as to time. These, rather than detract, reinforce the plausibility and truthfulness of the testimony as not contrived but is a sincere effort to recall and an honest eye-witness account of a not only startling but also a shocking occurrence.

x x x These facts persist in the mind without any diminution in credibility and force.(Parenthesis Ours)”

The same goes for Erlinda’s affidavit. Thus, the Court finds nothing wrong with the trial court’s holding that:[41]

“x x x The foregoing observations on the statements and testimony of Basilia Clavejo apply equally with those of this witness. Thus, the essential facts of the shooting of Cesar Clavejo, that the accused are her barangay-mates, the positive identification of the three (3) accused and the one at large, Dionito Mata; the fact

that these were all together at the same time and place and all armed with long firearms, and the threat uttered to her, are all present in the two statements and in her testimony on the witness stand.

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Like Basilia Clavejo, Erlinda Estares honestly stated that she did not know who shot Cesar. Under the circumstances she could not have seen who among the accused and Dionito Mata fired the first shot as they walked in single file with her ahead of her companions and the deceased Cesar bringing up the rear x x x. In fact she looked around after the first shot and saw the three (3) herein accused with Dionito Mata who went near the stricken Cesar (TSN, August 23, 1984, p. 16 and TSN, October 2, 1984, pp. 19). In such (an) emotional state no woman could wholly perceive all that was happening around her in a shocking way and so suddenly. And like Basilia she drew a very reasonable inference from the facts: that Cesar died x x x of gunshot wounds, that there were simultaneous and successive gunfires, that four (4) barangay-mates and neighbors, one a relative, of hers, all known to her and all armed with long firearms were there present and approached her and her dying brother, and that one of them, the accused 'Reggie' Sumbillo, tapped her with his gun and threatened her not to tell anybody that they killed Cesar or else she would be killed too, x x x but the basic facts to which she categorically testified as enumerated above, remain established and no other conclusion can be derived from them than that the herein accused were the killers of Cesar Clavejo. Each basic fact constituted as it were a link in the chain, each link reliable, strong and trustworthy."

Besides, as held by the Court of Appeals, the discrepancies were sufficiently explained by both witnesses on the stand. During the cross-examination of said witnesses, they clearly identified the assailants as Dionito Mata (who, as already stated, is still at large) and the appellants, correctly naming Appellant Abraham Adoracion.[42]

The infirmity of affidavits as a species of evidence is a common occurrence in judicial experience.[43] An affidavit taken ex parte is almost always incomplete and often inaccurate, sometimes from partial suggestion or for want of suggestions and inquiries.[44] Generally, it is considered to be inferior to the testimony given in open court and does not affect the credibility of the witness.[45] Thus, the appellate court properly affirmed the above-quoted ruling.[46]

The Import of the Family Feud

The appellants' allegation that the Clavejos were motivated to falsely accuse them because of the land dispute is belied by the testimony of their own witness. Defense Witness Silvestre Sumbillo, father of Appellant Reynaldo Sumbillo, testified that after he had bought Ramon Mata's land, the Clavejos did not try to take it from him. Thus, it is illogical for the victim's family to pin the murder on appellants for a piece of land they were no longer interested in. Furthermore, it is but natural that the victim's family will want punishment to be meted on the real killers of their kin, and not just on anybody.

In declaring that the prosecution witnesses had no ill motive, the trial court said:[47]

"These two simple women were wholly without affectation and were sincere in their manner of testifying from which it is very hard, (n)ay, impossible to believe that they were falsifying a very serious charge of murder against the herein accused."

On the other hand, Appellant Adoracion testified that Appellant Sumbillo's relative Susita had been killed by the deceased's brother Reynaldo. It appears that the appellants themselves had a reason to exact vengeance on the Clavejos and not the other way around. In any case, attributing to appellants the motive of vengeance is unnecessary, considering that they were positively identified as the assailants.[48]

Appellants' Alibi

In Appellants' Brief, the counsel for the defense admitted "the legal weakness of alibi as a defense." [49] For alibi

to prosper, it must be convincing enough to preclude any doubt on the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident.[50]

Appellants testified that Appellant Velarga was at his uncle's house, which was about a kilometer away from the scene of the crime; Appellant Adoracion was at their farm, also one kilometer away; and Appellant Sumbillo was at Jarden's farm. Even appellants' houses, where they were arrested, were only about one kilometer apart from each other.[51]

Thus, we have to agree with the ruling of the trial court that:[52]

“x x x (T)he places where they were at the time of the killing, were only a little more than one (1) kilometer from the place where Cesar Clavejo was shot. It was not, therefore, physically impossible for them to be at the scene of the crime x x x. It is a well-known fact as experienced by all men and of which judicial notice can be taken, that the distance of one kilometer can easily be traveled x x x between 7 to 8 minutes in a normal walking gait or stride and if a person were to run the distance, the time would be very much less.”

Clearly, Appellants' defense of alibi, inherently weak as it is, cannot prevail over the testimony of the prosecution witnesses positively identifying them as the perpetrators of the crime.[53]

Treachery and Conspiracy

Aside from positively identifying the assailants, the prosecution witnesses successfully established treachery and conspiracy. There is treachery when the offender employs means, methods or forms in the execution of a crime, which tend to directly and specially insure its execution, without risk to himself arising from the defense which the offended party might make.[54] The crime scene which was near a hill, was a field not usually traversed by the barrio residents. To prevent the victim from seeing them, Appellants situated themselves at an elevated position from which they suddenly and unexpectedly opened fire at the deceased. Not only was the victim unarmed; but he also had no opportunity to see the imminence of the attack on his life. Appellants further used the isolation of the place to ensure the accomplishment of the crime in secrecy.

As found by the trial court, all appellants fired their guns simultaneously. With Appellant Sumbillo, Dionito Mata approached the victim to check if he had been fatally hit. Appellant Sumbillo also prevented Erlinda from helping the victim and threatened to kill her if she revealed their identities as the victim's killers. Afterwards, they all fled towards the hills. These acts indicate a concurrence of sentiments, a joint purpose and a concerted action.[55] Conspiracy, thus, was sufficiently proven. Accordingly, the act of one is the act of all.[56]

The crime of murder perpetrated by appellants was established beyond reasonable doubt by the prosecution's evidence and witnesses. The imposition of the penalty of *reclusión perpetua* on appellants is mandated under Article 248 of the Revised Penal Code.

WHEREFORE, the present appeal is hereby DISMISSED. The Decision of the Appellate Court is hereby AFFIRMED in all respects.
SO ORDERED.

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

[1] Section 13, Rule 124 provides: “XXX. Whenever the Court of Appeals should be of the opinion that the penalty of *reclusion perpetua* or higher should be imposed in a case, the Court after discussion of the evidence and the law involved, shall render judgment imposing the penalty of *reclusion perpetua* or higher as the circumstances warrant, refrain from entering judgment and forthwith certify the case and elevate the entire record thereof to the

Supreme Court.”

[2] Rollo, p. 3-A.

[3] Records, p. 46.

[4] Presided by Judge Antonio L. Descallar.

[5] Rollo, pp. 39-40.

[6] Composed of J. Maria Alicia M. Austria, ponente, and JJ. Manuel C. Herrera and Nicolas P. Lapeña Jr.

[7] C.A. Decision, pp. 17-18; C.A. Rollo, pp. 89-90.

[8] Ibid., pp. 3-5; C.A. Rollo, pp. 75-77.

[9] TSN, July 23, 1985, p. 656.

[10] Ibid., p. 661.

[11] TSN, September 5, 1985, pp. 664-665.

[12] TSN, May 29, 1986, pp. 734-735.

[13] TSN, May 27, 1986, p. 720.

[14] TSN, June 2, 1987, pp. 764-765.

[15] TSN, February 27, 1986, p. 697.

[16] TSN, January 7, 1986, pp. 677-678.

[17] TSN, September 2, 1986, pp. 751-753 & 758.

[18] TSN, July 23, 1985, p. 652.

[19] TSN, June 6, 1985, pp. 632-634.

[20] Records, p. 118.

[21] TSN, January 24, 1985, pp. 625-626.

[22] TSN, September 15, 1987, pp. 817-818.

[23] Silvestre Sumbillo, TSN, August 11, 1987, pp. 803-804.

[24] Abraham Adoracion, TSN, May 29, 1986, pp. 746-748.

[25] TSN, June 2, 1987, pp. 781-783.

[26] Ibid., pp. 783-784.

[27] Id., pp. 786-787.

[28] TSN, May 27, 1986, pp. 720-723.

[29] Appellants’ Brief, Rollo, pp. 85-86.

[30] *People vs. Nuestro*, 240 SCRA 221, 227, January 18, 1995; *People vs. Daquipil*, 240 SCRA 314, 328, January 20, 1985; *People vs. Adonis*, 240 SCRA 773, 778-779, January 31, 1995.

[31] People vs. Ombrog, G.R. No. 104666, February 12, 1997, pp. 11-12; People vs. Cogonon, G.R. No. 94548, October 4, 1996, pp. 13-14; People vs. Gamiao, 240 SCRA 254, 260, January 19, 1995; People vs. Morin, 241 SCRA 709, 716, February 24, 1995.

[32] People vs. Morin, *ibid.*; People vs. Cogonon, *id.*.

[33] People vs. Dela Iglesia, 241 SCRA 718, 732, February 24, 1995; and People vs. Torres, 247 SCRA 212, 218, August 11, 1995.

[34] People vs. Ombrog, *supra*, p. 12; People vs. Cogonon, *supra*, pp. 13-14; and People vs. Dinglasan, G.R. No. 101312, January 28, 1997, pp. 13-14.

[35] TSN, October 2, 1984, pp. 585-586.

[36] TSN, June 26, 1984, pp. 540-543.

[37] Records, p. 8.

[38] *Ibid.*, p. 7.

[39] *Id.*, p. 14.

[40] RTC Decision, Rollo, pp. 28-31.

[41] RTC Decision, Rollo, pp. 31-34.

[42] TSN, June 26, 1984, pp. 14-17, and October 2, 1984, pp. 4-7.

[43] People vs. Ong Co, 245 SCRA 733, 742-743, July 11, 1995; People vs. Parangan, 231 SCRA 682, 690, April 22, 1994; and People vs. Gabas, 233 SCRA 77, 83-84, June 13, 1994.

[44] People vs. Avanzado, Sr., 158 SCRA 427, 433, February 29, 1988.

[45] People vs. Ferrer, 255 SCRA 19, 34, March 14, 1996; People vs. Ariza, 237 SCRA 410, 417, October 7, 1994; People vs. Ponayo, 235 SCRA 226, 230, August 10, 1994; and People vs. Sagwaben, 194 SCRA 239, 247, February 19, 1991.

[46] C.A. Decision, C.A. Rollo, pp. 78-85.

[47] RTC Decision, Rollo, p. 34.

[48] People vs. Gamiao, *supra*, p. 264; People vs. Lapura, 255 SCRA 85, 97, March 15, 1996; and People vs. Rodico, 249 SCRA 309, 320, October 16, 1995.

[49] Rollo, p. 43.

[50] People vs. Morin, *supra.*, p. 715; People vs. Lopez, 249 SCRA 610, 621-622, October 30, 1995; and People vs. Jose, 250 SCRA 319, 322, November 24, 1995.

[51] TSN, June 2, 1987, pp. 773-774.

[52] RTC Decision, Rollo, p. 36.

[53] People vs. Ombrog, *supra*, p. 15; People vs. Ferrer, *supra*, p. 35; and People vs. Panganiban, 241 SCRA 91, 100, February 6, 1995.

[54] People vs. Camahalan, 241 SCRA 558, 571, February 22, 1995; and People vs. Soldao, 243 SCRA 119, 127,

March 31, 1995.

[55] *People vs. De Leon*, 245 SCRA 538, 546-547, July 3, 1995; *People vs. Torres*, 247 SCRA 212, 217-218, August 11, 1995; and *People vs. Asoy*, 251 SCRA 682, 689, December 29, 1995.

[56] *People vs. Panganiban*, *supra.*, p., 102; *People vs. Lopez*, *supra.*, pp. 624-625; and *People vs. Nacional*, 248 SCRA 122, 131, September 7, 1995.

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