

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO SAN JUAN, ACCUSED-APPELLANT.

G.R. No. 105556. April 04, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Rape is horrible and nauseating. The crime is even more disgusting and infuriating when the victim is a mental retardate who is incapable of giving intelligent consent to the sexual act.

This is an appeal from the Decision[1] dated September 2, 1991 of the Regional Trial Court of xxx, Metro Manila, Branch xxx,[2] in Criminal Case No. 9370-V-89 convicting Accused Rodolfo San Juan of the crime of rape, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to indemnify the offended party in the amount of P20,000.00 and to pay the costs.[3]

The Criminal Complaint, which was treated as the Information[4] after a preliminary investigation had been conducted by Asst. Provincial Prosecutor xxx, reads as follows:

“The undersigned complainant, assisted by her father, accuses Rodolfo San Juan of the crime of rape, penalized under the provisions of Art. 335 of the Revised Penal Code, committed as follows:

That on or about the 30th day of September, 1988, in the municipality of xxx, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused Rodolfo San Juan did then and there wilfully, unlawfully and feloniously, by means of force, threats and intimidation, have carnal knowledge of the offended party AAA, a mentally retarded, (sic) against her will and consent.

Contrary to law.”

When arraigned, the accused, assisted by Counsel de Oficio Ricardo Neri, pleaded not guilty.[5] After trial, the trial court found the accused guilty as charged. Hence, this appeal.

The Facts

Version of the Prosecution

The prosecution presented four witnesses: (1) the offended party and complainant AAA, who gave an account of the rape; (2) the victim’s father BBB, an eyewitness to the crime; (3) Dr. xxx, who testified on the mental condition of the victim; and (4) Dr. xxx, who testified on the results of his medical examination of the victim.

Their testimonies were summarized by the trial court as follows:

“BBB, father of victim AAA, substantially testified that his daughter AAA who is 26 years old is mentally retarded. That on September 30, 1988 between the hours of 6:00 and 6:30 in the evening while he was by the window of his house tending to his grandchild in the cradle, he was watching his daughter AAA fetching water from a communal water system located in front of his house. That he has been keeping watch of his daughter

AAA because he received news that the accused often called her. That after a while, he noticed that AAA was no longer in (sic) the faucet so he started to look for her. That he went to the residence of his nephew about 10 meters away from the faucet but failed to find AAA there. That he returned home and accompanied by his son CCC, they proceeded to a vacant house owned by the sister of the accused about 3 to 4 meters away from his house and saw the accused on top of the body of his daughter AAA with the accused's penis inserted inside the sex organ of his daughter AAA. That AAA's dress was raised up to the shoulder and the hands of the accused were on the breast (sic) of AAA. That when the accused noticed them, the accused rose up, put on his brief and short pants and jumped out of the window. That he and his son CCC chased the accused but the accused jumped over the fence and they failed to overtake him. That he returned to the house where he found AAA and the accused and asked AAA to go home. That because of his anger, he slapped AAA and the latter revealed to him that she was often threatened by the accused, placed his arms around her neck and admonished not to shout. (sic) That AAA informed him that the accused had sexually abused him (sic) about five (5) times. That he went to the house of the eldest sister of the accused where the accused was but the latter did not come out so he went home. That after a while, accused called him and invited him to the store. That he followed and while they were walking, he told the accused, 'Traidor kang kapitbahay' and the accused boxed him twice. That he fell down to the ground and the accused's brother-in-law approached and kicked him. That his children came to his assistance but the accused threw stones to (sic) his children. That he brought his daughter AAA to the xxx District Hospital and then to the xxx Police Station. That AAA was examined by the NBI.

x x x x x x x x

AAA, substantially testified that in the afternoon of September 30, 1988, she saw the accused in front of his house. That the accused approached her and asked her to go with him to an empty house. That the accused told her that if she will not go with him, her parents, brothers and sisters will die. That inside the empty house, the accused embraced her and asked her to lay (sic) down. That the accused removed her panty and inserted his penis inside her organ. That she felt painful (sic). That accused raised her upper clothes and embraced her tightly and had sexual act with her. That her father saw them through the window of the accused and the accused ran away. That her father slapped her and brought her home. That the empty house is near the house of the accused and near the public faucet. That she told the accused not to remove her panty but the accused continued removing her panty. That she could not resist because the accused was on top of her and her hands were not free to move. That the accused touched her breasts and her sex organ and she resisted because it was painful and told the accused she don't like (sic). That the accused raped her several times before the incident at bar. That while the accused was performing sexual act with her, she resisted and told the accused 'Wag na ho' and she slapped his arms. That she did not continue to struggle while the accused was doing the sexual act because she felt weak and her arms were painful and the accused held her hands.

On redirect, she said that she affixed her thumbmark on the complaint.

On Court's clarificatory question, she said that she attended school and reached up to Grade V. That she cannot write her name without sample from where she could copy. That she do (sic) not know her age and do (sic) not know when she was born.

DRA. XXX, Psychiatrist and Officer-in-Charge of the Neuro-Psychiatric Service of the NBI, testified that she examine (sic) and evaluate (sic) mentally sick people referred to their section by the Medico Legal Section of the NBI. That she conducted examination and made evaluation on the mental condition of the victim AAA when she was referred to their department by their Medico Legal Section. That victim AAA is premature or childish in her ways and her mental age is only of a five (5) years and ten (10) months old child. That her speech is delayed and she is playful. That she can also be taught to do something and relay things that she has experienced or happened

(sic) to her. That victim is suffering from mental retardation. That she prepared a Neuro-Psychiatric Evaluation Report. That psychological test was conducted by xxx who concluded that AAA is within the mentally retarded group with a mental age of five years and ten months.

DR. XXX, Medico Legal Officer of the NBI, substantially testified that he conducted examination on the person of the victim. That he did not find physical injuries on the body of the victim on account of lapse of time. That he found old healed hymenal laceration which under the normal course could be caused by fully erected (sic) male organ. That the old hymenal laceration was inflicted for a long time. That he prepared the Living Case Report.

On cross-examination, he said that the old healed hymenal laceration could have been inflicted more than three months ago. That hymenal laceration could also be caused by instrumentation, horse or bicycle riding and masturbation.”[6]

Version of the Defense

Against the prosecution’s theory that AAA was raped by Accused-appellant Rodolfo San Juan in the empty house of his elder sister, the defense relies on denial, claiming that the accused-appellant spent almost half the day drinking tuba with his brothers-in-law and that, when he went to his sister’s house that afternoon, he slept on the floor because he was already very tipsy. He claims not to have seen anybody else there.

The defense presented three witnesses, to wit: the accused himself, his brother-in-law Domingo Jubilla, and Purificacion Roldan. Their testimonies were summarized by the trial court as follows:

“Accused (herein appellant San Juan) substantially testified that on September 30, 1988 from 9:00 in the morning, he was in his house and had a drinking spree with his brothers-in-law Domingo Jubilla, Jaime Jubilla, Jr. and Boy Jubilla up to 4:00 in the afternoon. That at about 4:00 in the afternoon, he left his companions and went to a nearby fence and answered to the call of nature. That the fence where he urinated is about 1 1/2 arms length to the place where his companions were (sic). That because he was drunk, he was not able to return to his companions and he went to the house of his sister which is about two arms length from where his companions were. That he was drunk that he could not stand without support or hold on solid thing and cannot recognize the things before him (sic). That upon entering the house of his sister, he almost stumbled down. That the house of his sister has no partition and the windows are made of glass and visible to the place where they had a drinking spree. That the house is also visible to the house of AAA which is about two arms length away. That he had not seen AAA. That the communal water system is near the house of his sister and about 1 1/2 arms length from the place he urinated. (sic) That while urinating, he heard voices of people coming from the communal water system. That he fell asleep at about 4:00 in the afternoon and woke up between 5:00 and 6:00 in the same afternoon. That when he woke up, he went home and noticed BBB and CCC in their yard. That when he reached home, he took a bath and changed his clothes to go to his stall at the ‘talipapa’ in xxx. That it is not true that he raped AAA. That it is not also true that he was on top of AAA and inserted his sex organ inside her private part. That he was then sleeping. That there was no occasion that (sic) BBB confronted him on that day. That there was a misunderstanding that existed between him and BBB and/or his children in the past because they envy (sic) him since their (accused) financial standing improved. That there are (sic) times that they fought with each other that resulted to (sic) bodily harm/physical injuries.

PURIFICACION ROLDAN substantially testified that on September 30, 1988 between 5:00 and 6:00 in the afternoon she was at the artesian well located along the roadside fetching water. That there were many people fetching water at that time. That she the accused sleeping in the house of his (accused) sister located about two meters away from the faucet with the door and windows opened. (sic) That the accused was sleeping because he was drunk. That she saw AAA entered (sic) the house and stood (sic) inside the house and after about 30 seconds,

her (AAA's) father and CCC arrived and took her. That the house of the sister of the accused and the house of AAA is around four to five meters away. That after AAA was brought home, there was altercation between AAA's father BBB and the accused. That they had a long time grudge and she saw them having heated argument on the New Year of 1988.

DOMINGO JUBILLA substantially testified that on September 30, 1988 at 9:00 in the morning he was in the house of the accused at xxx, Metro Manila on occasion of the baptismal party of the child of his (witness) elder brother Renato alias Boy held in the house of the accused because his brother do (sic) not own yet a house. That upon arriving in the house of the accused, he, his elder brother, the accused and the latter's elder brother had a drinking spree at the terrace of the house of the accused that lasted up to 5:00 in the afternoon. That at 5:00 in the afternoon, they left the accused sleeping in the house of his sister about one house away to (sic) the house of the accused. That he know (sic) that the accused was sleeping because they located him upon his (accused) wife (sic) request and found him sleeping inside his sister's house. That upon seeing the accused sleeping, they prepared to leave and go home. That they left the house of the accused at about 5:30 in the afternoon. That while in the house of the accused, he saw BBB and AAA in their house looking out their window.”[7]

The Trial Court's Ruling

Granting full credence and probative weight to the prosecution witnesses' testimonies, the trial court, on September 2, 1991, rendered its Decision convicting the appellant, viz.:

“In sum, the Court is convinced beyond doubt of the existence and commission of the offense. AAA's mental deficiency, her lack of sufficient discretion, judgment and moral courage to seriously resist was taken advantage of by the accused who is experienced in the ways of life.

WHEREFORE, finding the accused Rodolfo San Juan guilty beyond reasonable doubt of the offense charged in the complaint, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, with the accessory penalties prescribed by law and to pay the costs.

Accused is hereby ordered to indemnify the offended party the sum of P20,000.00.[8]

SO ORDERED.”[9]

The Issues

In his appeal brief, appellant through Counsel Manuel A. Dalucapas[10]submitted the following assignment of errors:[11]

“I

The lower court erred in giving full faith and credit to the testimonies of complainant and her witnesses, while rejecting altogether the truthful and credible testimony of accused-appellant which was corroborated by his witnesses.

II

The lower court erred in convicting the accused-appellant despite the prosecution's failure to prove his guilt beyond reasonable doubt.”

Ultimately, the errors assigned by the appellant may be reduced to the single issue of credibility of witnesses.

The Court's Ruling

The appeal is unmeritorious.

Credibility of Witnesses

In deciding this appeal, the Court is guided by three well-entrenched principles in reviewing rape cases, to wit:

“(a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge;

(b) considering that, in the nature of things, only two (2) persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and

(c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence of the defense.”[12]

The foregoing principles involve questions of fact and credibility of witnesses -- particularly that of the offended party.

In a long line of cases, it has been held that “the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grilling examination. These are the most significant factors in evaluating the sincerity of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. Through its observations during the entire proceedings, the trial court can be expected to determine, with reasonable discretion, whose testimony to accept and which witness to disbelieve. Verily, findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case.”[13] After a thorough scrutiny of the records of the case at bench, the Court finds that the trial court did not err in giving full faith and credence to the testimonies of AAA and the other prosecution witnesses which it characterized as “clear, positive and convincing.”[14]

Complaining Witness Credible

The mere fact that 26-year old AAA had the mental development of a child 5 years and 10 months old does not lessen her credibility, since she has shown her ability to communicate her ordeal clearly and consistently. Her steadfast account of the rape both on direct and cross-examination are replete with details that jibe on material points. Moreover, her testimony, taken together with her father’s, paints a convincing picture of the whole sordid incident. Her positive identification of Rodolfo San Juan as the one who raped her is credible because she knew and recognized Appellant San Juan, her neighbor.

Furthermore, AAA’s mental age lends credence to her testimony. Considering her childlike naiveté and innocence, it is indeed highly unlikely for her to testify so tenaciously and convincingly on the details of the rape if she has not in fact suffered such crime at the hands of appellant. It has been held that “no woman especially one who is of tender age would concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished.”[15]

No Fixed Reaction to a Shocking Crime

The defense assails the credibility of BBB and AAA’s testimonies by asserting that some portions thereof are “at odd (sic) with natural human experience.”[16] BBB allegedly saw the appellant raping his daughter for one or two minutes, yet he and his son[17] who was then with him did not stop the alleged rape or utter a word of outrage.[18] Appellant argues further that “[i]f it were true that she was raped and shouted for help, then the

people present in the artesian well fetching water should have heard her considering that the well is only 3 or 4 meters away from the place of the incident. Experience has proved beyond cavil that when a lady is being abused, she will shout on the top of her voice to attract the attention of the persons around the vicinity to lend a helping hand. This is specially true in the present case considering that AAA never testified that the appellant covered her mouth during the incident.”[19]

After a thorough study of the records in this case, the Court is convinced that the reaction of BBB and his son, CCC, when they witnessed the rape of AAA, is not contrary to human experience as to be unbelievable. We have repeatedly ruled that “the workings of the human mind placed under a great deal of emotional and psychological stress (such as during rape) are unpredictable, and different people react differently. There is no standard form of human behavioral response when one is confronted with a strange, startling, frightful or traumatic experience -- some may shout, some may faint, and some may be shocked into insensibility.”[20]

In *People vs. Villaruel*,[21] Appellant Villaruel assailed Eyewitness Rosaleo Cagado’s “supposed unusual behavior in just watching appellant assault his victim instead of putting a stop to it, or at least calling for help.” The Court ruled there that “(w)hile it may be true that Rosaleo Cagado acted in a rather odd manner, he could not be faulted for being indecisive. There is no standard rule by which witnesses to a crime may react thereto.” (Emphasis supplied.) In the present case, that Eyewitnesses BBB and CCC had probably been shocked into inaction at the sight of Appellant San Juan raping AAA should not detract from the credibility of their testimonies.

Nonetheless, it should be observed that BBB and his son subsequently recovered from their shock and sprang in pursuit of the appellant. This may be gleaned from the testimonies of both father and daughter. AAA testified to the following:

“FISCAL xxx:

That is very fair to the witness, I am only asking if (she) had seen her father.

COURT:

Witness may answer.

WITNESS:

A I saw him through the window.

x x x x x x x x

Q How about Mang Rudy, what did he do when he saw your father through the window?

A When Mang Rudy saw my father, he ran away.”[22]

This confirms the following testimony of BBB:

“Q What happened when you arrived at that house finding your daughter and the accused in that position and appearance?

A Then he rose up and put on his pair of short pants his brief and short pants and jumped out of the window.

Q What did you do when you saw the accused jumped out of the window?

A We chased him.

Q When you said ‘we’, who was your companion in chasing the accused?

A My son CCC.

Q Where did the accused go?

A He jumped over the fence, I did not follow him anymore and he proceeded to his house.

Q What did you do when you desisted from chasing the accused up to his house?

A I returned to the place where my daughter was.”[23] (Underscoring supplied.)

Corollarily, in stating that he watched the rape for one or two minutes, BBB did not necessarily determine the duration on the basis of a timepiece. He merely gave an estimate of what then felt to him to be one or two minutes. His subjective sense of time under such distressful circumstances cannot be deemed exactly accurate.

Equally bereft of merit is the argument of the defense that AAA’s testimony is incredible. Appellant contended that her alleged cries for help would have been heard by the people fetching water from the artesian well just three or four meters from the nearby house. But as the Solicitor General astutely and correctly states, “(b)eing a mentally retarded woman, and in a state of shock and surprise, AAA may have mistaken her plea for help as loud outcries albeit in truth, her voice was muffled.”[24] Her voice could have been silenced by shock. This was supported by the fact that at no instance did AAA testify that her mouth had been covered by appellant.

Parenthetically, that the rape took place in a house with people nearby does not diminish the credibility of AAA’s rape charge. “In a long line of rape cases, the Court has held that rape can be committed even in places where people congregate, in parks, along the roadside, within school premises and even inside a house where there are other occupants or where other members of the family are also sleeping. Lust is no respecter of time and place.”[25]

Hymenal Laceration Not Vital to Proving Rape

The defense submits that “Dr. xxx, the Medico-Legal Officer of the NBI who conducted the medical examination on the victim, x x x ruled out the commission of rape on the date complained of and alleged in the Information instituted by the Fiscal. The victim was examined on October 1, 1988 whereas, the alleged commission of the rape took place on September 30, 1988. And Dr. xxx found out that the injury in the hymen of the victim (sic) was inflicted more than three (3) months before the medical examination.”[26]

This argument does not defeat AAA’s assertion that Appellant San Juan raped her that fateful afternoon. We reiterate the well-settled doctrine that “x x x lack of lacerated wounds does not negate sexual intercourse. Moreover, the fact that hymenal lacerations were found to be ‘healed round edge’ and that no spermatozoa was found does not necessarily negate rape. A freshly broken hymen is not an essential element of rape. For that matter, in crimes against chastity, the medical examination of the victim is not an indispensable element for the successful prosecution of the crime, as her testimony alone, if credible, is sufficient to convict the accused thereof,”[27] as in this case. The fact that AAA had an old, healed hymenal laceration only gives credence to her testimony that she was raped several times before by the appellant.[28]

Mental Retardate Incapable of Giving Consent

The mere fact that AAA was mentally retarded, the defense argues, “should not work against the appellant as the former is a normal person after all.”[29] In support of this contention, the defense cites the testimony of prosecution witness and psychiatrist, Dr. xxx:

“Fiscal xxx: (To the witness)

Q We would like to solicit your opinion on this matter whether a person although 26 years old but with a

mental state of 5 years and 10 months child, can resist seriously a sexual abuse on her person?

A She has a mental age of 5 years old, but she can be placed in equal footing to a normal person. (TSN, December 17, 1990, p. 13)."

The defense then quotes from her cross-examination as follows:

"Q Now if your actual age is 26 but your mental age is 5 years old only, is there still coherency (of) action or intelligence in the answer that you can extract from the subject?

A Yes, that would be equivalent to her mental age (TSN, December 17, 1990, p. 24).

x x x x x x x x

Q Now, in layman's language, please explain to us your findings on the subject that she is coherent.

A Coherent is tama ang sinasabi (TSN, December 17, 1990, pp. 25-26)."

Dr. xxx's testimony, that AAA was coherent and able to communicate her perceptions on the stand, cannot in any way support the submission that she was a "normal person" capable of giving lawful consent to a sexual intercourse. The defense overlooked well-entrenched doctrines laid down by this Court, to wit:

"The issue x x x that a mentally retarded woman could not have given valid and legal consent to the sexual act is not new. In the case of *People vs. Manlapaz*, 88 SCRA 704, We held that the victim, 13 years old at the time of the commission of the act but with the mentality of a 5-year old child, 'is incapable of giving rational consent to the carnal intercourse.' And in the case of *People vs. Gallano*, 108 SCRA 405, the judgment of conviction by the trial court was affirmed by Us because complainant DDD, who was then 31 years old at the commission of the act but had the mentality of a 7-year old child, 'is a retardate or one mentally ill, such that she was incapable of offering any effective or real resistance to appellant's sexual assault (p.407, Id.). x x x Her mental condition was such that she would not resist sexual advances because she was so deprived of reason to make any effective resistance. Hence, by being so deprived, the act is made possible in the same way when there is active resistance but same is overcome by force and threat, which is the essence of the crime of rape (p. 413, Id).'

Assuming that complainant x x x voluntarily submitted herself to the bestial desire of appellant still the crime committed is rape under paragraph 3 of Article 335 of the Revised Penal Code. This is so even if the circumstances of force and intimidation, or of the victim being deprived of reason or otherwise unconscious are absent. The victim has the mentality of a child below seven years old. If sexual intercourse with a victim under twelve years of age is rape, then it should follow that carnal knowledge with a seventeen-year old girl whose mental age is that of a seven year old child would constitute rape." [30] (Underscoring supplied.)

In any case, Dr. xxx's assertions support the earlier conclusion regarding the admissibility of AAA's testimony in view of the quality of her perceptions and her ability to communicate these to the court.

No False Accusation of Rape

The contention of the defense that "the complaint was initiated merely because of the long time grudge by BBB on (sic) the appellant," [31] deserves scant consideration. We reiterate that "it is unnatural for a parent to use her offspring as an engine of malice, especially if it will subject a daughter to embarrassment and even stigma." It is plainly inconceivable that BBB would expose his mentally retarded daughter AAA, whom he had loved and cared for through the years, to the travails and indignities accompanying a rape trial out of mere spite for his neighbor Rodolfo San Juan over some petty spats. Indeed, it is improbable that a father would prejudice his own daughter if he "was not motivated by an honest desire to have the culprit punished." [32]

Weight and Sufficiency of Evidence

In sum, the Court finds AAA's testimony, together with the testimonies of the other witnesses of the prosecution, overwhelmingly straightforward, logical and convincing as to be worthy of belief and impervious to a mere denial by Appellant San Juan. "It is a well-settled rule that an affirmative testimony is far stronger than a negative testimony, especially so when it comes from the mouth of a credible witness x x x." [33]

Therefore, we agree with the trial court that the evidence for the prosecution has proved beyond reasonable doubt that Appellant Rodolfo San Juan is guilty of the crime of rape. This conclusion is reached pleno jure. However, the indemnity of P20,000.00 awarded by the trial court to AAA must be increased to P50,000.00 pursuant to prevailing jurisprudence. [34]

WHEREFORE, the appeal is DENIED and the questioned Decision of the trial court, finding Appellant Rodolfo San Juan guilty beyond reasonable doubt of the crime of rape and imposing on him the penalty of reclusion perpetua, is hereby AFFIRMED. The indemnity in favor of Complainant AAA is hereby INCREASED to fifty thousand pesos (P50,000.00).

SO ORDERED.

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

[1] Rollo, pp. 19-26.

[2] Judge Adriano R. Osorio, presiding.

[3] Rollo, p. 26.

[4] Records, pp. 1-2; Rollo, pp. 8-9.

[5] Ibid., p. 24.

[6] Rollo, pp. 20-22.

[7] Ibid., pp. 22-24.

[8] People vs. Ausan, 152 SCRA 52, July 15, 1987, was cited by the trial court in support of the award.

[9] Rollo, p. 8.

[10] Atty. Dalucapas was substituted by Attys. Uribe, Mejia and Batara after the Appellant's Brief had already been filed. The new lawyers did not file a reply brief.

[11] Appellant's Brief, pp.5-6; Rollo, pp. 44-45.

[12] People vs. Ramirez, G.R. No. 97920, pp. 11-12, January 20, 1997; citing People vs. Guamos, 241 SCRA 528, February 21, 1995.

[13] People vs. Ombrog, G.R. No. 104666, pp. 11-12, February 12, 1997; citing People vs. Cogonon, G.R. No. 94548, October 4, 1996, People vs. Decena, 235 SCRA 67, August 4, 1994, People vs. Balisteros, 237 SCRA 499, October 7, 1994, and People vs. Estrellanes, 239 SCRA 235, December 15, 1994.

[14] Rollo, p. 25.

[15] People vs. Ramirez, supra; quoting People vs. Sanchez, 250 SCRA 14, November 16, 1995 citing People vs.

Magallanes, 218 SCRA 109, January 29, 1993.

[16] Appellant's Brief, p. 10; Rollo, p. 49.

[17] Ibid.

[18] Ibid., p. 8; Rollo, p. 47.

[19] Ibid., pp. 12-14; Rollo, pp. 51-53.

[20] People vs. Gumahob, G.R. No. 116740, pp. 12-13, November 28, 1996; citing People vs. Malunes, 247 SCRA 317, August 14, 1995, People vs. Alih, 222 SCRA 517, May 24, 1993, People vs. Abordo, 224 SCRA 725, July 23, 1993, People vs., Lagrosa, Jr., 230 SCRA 298, February 23, 1994, and People vs. Arnan, 224 SCRA 37, June 30, 1993. See also People vs. Gecomio, 254 SCRA 82, 97, February 23, 1996.

[21] 238 SCRA 408, 416, November 25, 1994; citing People vs. Biago, 182 SCRA 411, February 21, 1990. See also People vs. Gomez, 251 SCRA 455, December 19, 1995.

[22] TSN, pp. 13-14, December 10, 1990.

[23] Ibid., pp. 13-14, July 5, 1989.

[24] Appellee's Brief, p. 15.

[25] People vs. Dones, 254 SCRA 696, 707, March 13, 1996.

[26] Appellant's Brief, p. 23; Rollo, p.62.

[27] People vs. Cura, 240 SCRA 234, 243, January 18, 1995; citing People vs. Santiago, 197 SCRA 556, May 28, 1991, People vs. Madridano, 227 SCRA 363, October 22, 1993, People vs. Abordo, 224 SCRA 725, July 23, 1993, People vs. Dio, 226 SCRA 176, September 8, 1993, and People vs. Arce, 227 SCRA 406, October 26, 1993.

[28] TSN, December 10, 1990, pp. 22-23.

[29] Appellant's Brief, pp. 25-26; Rollo, pp. 64-65.

[30] People vs. Asturias, 134 SCRA 405, 411-412, January 31, 1985.

[31] Appellant's Brief, pp. 26-32; Rollo, pp. 65-70.

[32] People vs. Tabao, 240 SCRA 758, 771, January 30, 1995; citing People vs. Rosell, 181 SCRA 679, January 30, 1990.

[33] People vs. Ramirez, supra; citing People vs. Digno, Jr., 250 SCRA 237, November 23, 1995.

[34] People vs. Gagto, 253 SCRA 455, 469, February 9, 1996.

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