

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RODENCIO NARCA Y GAGARIN, BENJAMIN NARCA Y GAGARIN,  
ROGELIO NARCA Y GAGARIN, AND JAIME BALDELAMAR Y SELMO,  
DEFENDANTS-APPEL...**

*G.R. No. 108488. July 21, 1997*

Ponente: FRANCISCO, J.

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**FRANCISCO, J.:**

For the death of Mauro Reglos, Jr. (hereinafter victim), defendants-appellants Rodencio @ “Rudy”, Benjamin, Rogelio all surnamed Narca and their brother-in-law Jaime @ Benjamin Baldelamar were charged[1] with the following information for murder:

“That on or about the 10th day of March, 1990, between 7:00 and 8:00 in the evening, at barangay Cavite, municipality of Guimba, province of Nueva Ecija, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, by conspiring, confederating and helping one another, and taking advantage of the darkness of the night, did then and there, willfully, unlawfully and feloniously attack, assault and hack with bolos one MAURO REGLOS, JR., inflicting upon said victim fatal hack wounds that caused his instantaneous death.”[2]

When appellants’ failed in their motion to quash the above information, they filed a motion for bail.[3] During the bail hearings on September 19, 1990, the victim’s wife Elizabeth Reglos, who was with him on that fateful night, testified on direct examination. Defense counsel requested the court that his cross-examination of Elizabeth be conducted on the next hearing, October 4, 1990.[4] Such cross-examination on said date never took place because Elizabeth and her son were bludgeoned to death on September 28, 1990.[5] After hearing, the lower court denied bail.[6] During arraignment, appellants pleaded “not guilty”. [7] Trial ensued and the lower court thereafter rendered judgment[8] convicting appellants, the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered, finding the accused Benjamin Narca y Gagarin, Rodencio “Rudy” Narca y Gagarin, Rogelio Narca y Gagarin and Jaime “Benjamin” Baldelamar y Selmo, guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, and hereby sentences EACH of them to suffer the penalty of LIFE IMPRISONMENT.

The said accused are likewise ordered to pay, jointly and severally, the heirs of the deceased Mauro Reglos, Jr., the sum of P50,000.00 as indemnification fee, the sum of P29,000.00 as actual damages and expenses, without subsidiary imprisonment in case of insolvency, and to pay the costs.

IT IS SO ORDERED.”[9]

The facts given credence by the trial court are as follows:[10]

“x x x (O)n March 10, 1990, between 7:00 to 8:00 o’clock in the evening, after spouses Mauro Reglos, Jr. and Elizabeth Reglos have just come from the house of the father of Mauro Reglos, Jr. at Barangay Cavite Plum, Guimba, Nueva Ecija, who was then sick, and on their way home to Sta. Ana, Guimba, Nueva Ecija, accused

Benjamin Narca suddenly hacked Mauro Reglos, Jr. at the back portion of his head with a long bolo known as “panabas”. When Mauro was about to fall at his back, Jaime Baldelamar, Rogelio Narca and Rodencio “Rudy” Narca suddenly appeared, and they took turns in hacking Mauro with bolos. When Mauro was being hacked, his wife Elizabeth screamed for help, and Arturo Reglos and Dante Reglos responded and arrived at the scene of the incident. They saw Benjamin, Rodencio “Rudy” and Rogelio, all surnamed Narca, and Jaime Baldelamar, all armed with bolos, guarding their brother Mauro Reglos, Jr. who was lying face downward, soaked with blood, but still alive. Arturo Reglos and Dante Reglos and Elizabeth Reglos cannot approach Mauro Reglos, Jr. because they were threatened by the Narca brothers and Jaime Baldelamar. Two minutes after Arturo and Dante Reglos arrived, all the accused left, but accused Rogelio Narca returned and hacked Mauro Reglos once more at his back.”

On appeal to this court, appellants by way of defense (1) assail the validity of the preliminary investigation because they were not represented therein by counsel and was therefore deprived of due process, (2) argue that the testimony of Elizabeth Reglos in the bail hearings should not be given credence since she was not cross-examined, and (3) claim that pending this appeal, appellant Benjamin executed an affidavit assuming full and sole responsibility for the victim’s death but nonetheless invokes self-defense while the other appellants in their respective affidavits state that they were not in the scene of the crime.[11]

All these defenses must fail.

On the first defense, there is nothing in the Rules which renders invalid a preliminary investigation held without defendant’s counsel. Not being a part of the due process clause[12] but a right merely created by law, preliminary investigation if held within the statutory limitations cannot be voided. Appellant’s argument, if sustained, would make a mockery of criminal procedure, since all that a party has to do to thwart the validity of the preliminary investigation is for their counsel not to attend the investigation. It must be emphasized that the preliminary investigation is not the venue for the full exercise of the rights of the parties. This is why preliminary investigation is not considered as a part of trial but merely preparatory thereto[13] and that the records therein shall not form part of the records of the case in court.[14] Parties may submit affidavits but have no right to examine witnesses though they can propound questions through the investigating officer. [15] In fact, a preliminary investigation may even be conducted ex-parte in certain cases.[16] Moreover, in Section 1 of Rule 112, the purpose of a preliminary investigation is only to determine a well grounded belief if a crime was “probably” committed by an accused.[17] In any case, the invalidity or absence of a preliminary investigation does not affect the jurisdiction of the court which may have taken cognizance of the information nor impair the validity of the information or otherwise render it defective.[18]

On their second defense, it is to be noted that the defense’s failure to cross-examine Elizabeth Reglos was occasioned by her supervening death. Lack of cross-examination due to the death of the witness does not necessarily render the deceased’s previous testimony expungible. Thus, this Court in *Republic v. Sandiganbayan*,[19] citing *Fulgado v. CA*, [20] said that:

“The wholesale exclusion of testimonies was too inflexible a solution to the procedural impasse because it prejudiced the party whose only fault was to die before he could be cross-examined. The prudent alternative should have been to admit the direct examination so far as the loss of cross-examination could have been shown to be not in that instance a material loss. And more compelling so in the instant case where it has become evident that the adverse party was afforded a reasonable chance for cross-examination but through his own fault failed to cross-examine the witness.

“Where death prevents cross-examination under such circumstances that no responsibility of any sort can be ascribed to the plaintiff or the witness, it seems a harsh measure to strike out all that has obtained in the direct examination.” (*Italics supplied*)

Besides, mere opportunity and not actual cross-examination is the essence of the right to cross-examine.[21] Appellants lost such opportunity when they sought the deferment of their cross-examination of Elizabeth, and they only have themselves to blame in forever losing that right by reason of Elizabeth's demise. This Court held that the right to cross-examination

“is a personal one which may be waived expressly or impliedly by conduct amounting to a renunciation of the right of cross-examination. Thus, where a party has had the opportunity to cross-examine a witness but failed to avail himself of it, he necessarily forfeits the right to cross-examine and the testimony given on direct examination of the witness will be received or allowed to remain in the record. x x x (W)aiver of the right to cross-examine may take various forms. But the common basic principle underlying the application of the rule on implied waiver is that the party was given the opportunity to confront and cross-examine an opposing witness but failed to take advantage of it for reasons attributable to himself alone.”[22] (Italics supplied)

We also find unmeritorious appellants' argument that Elizabeth's testimony, having been taken during the bail hearings, cannot be used against them. Section 1(f) of Rule 115 provides that “either party may utilize as part of its evidence the testimony of a witness who is deceased x x x given in another case or proceeding”, and under Section 8 Rule 114[23] as amended by Circular 12-94,[24] “evidence presented during the bail hearings,” like the testimony of deceased witness Elizabeth, are “considered automatically reproduced at the trial” subject only to the possible recall of the “witness for additional examination unless the witness is dead, outside the Philippines or otherwise unable to testify.”

On their third defense, appellant Benjamin admits that he killed the victim but only in self-defense and that his co-appellants, who are invoking alibi, had nothing to do with the crime.

One who claims self-defense must prove: (a) unlawful aggression, (b) reasonable necessity of the means employed to prevent or repel it and (c) lack of sufficient provocation on the part of the person defending himself.[25] In the case at bench, the foremost element of unlawful aggression is absent. Unlawful aggression presupposes an actual or imminent danger on the life or limb of a person. Mere shouting, intimidating or threatening attitude of the victim, assuming that to be true, does not constitute unlawful aggression.[26] If there be any such aggression, it obviously came from appellants. Evidence on record shows that the victim was only walking with his wife, when he was suddenly and without warning attacked by appellants with “panabas” and bolos. He was hit at the back of his head chopping off a part of his skull exposing his brain.[27] Where the attack is perpetrated suddenly and without warning, there is treachery.[28] Due to appellants' treacherous acts, the outnumbered victim was caught by surprise and had no whimper of a chance to defend himself.[29] This satisfies the two conditions of treachery:

(a) employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate, and

(b) that said means of execution be deliberately and consciously adopted.[30]

Once the fact of alevosia was established and proven, any claim of self defense cannot prosper for being inconsistent with treachery.

In addition, the location and severity of the fatal wounds on the head exposing the brain[31] and the numerous other wounds suffered by the victim belie the claim of self-defense but is indicative of a determined effort to kill.[32] Absent unlawful aggression, there would be no occasion for the second and third elements to be present. Thus, appellant Benjamin failed to discharge his burden of proving by clear and convincing evidence the exculpatory cause he invokes.[33] He must rely on the strength of his own evidence and not on the weakness of that for the prosecution, for even if the latter's evidence is weak, it could not be disbelieved after he himself

admitted the killing.[34] Accordingly, his conviction will follow from his admission as author of the crime as well as his failure to prove self defense by the required quantum of evidence.[35]

With respect to the defense of alibi by the other appellants - such defense, aside from being inherently weak and easy to fabricate, crumbles in the face of their positive identification[36] by prosecution witnesses as being present in the scene of the crime as well as the victim's dying declaration pointing to appellants as his assailants.

Appellants Rogelio and Rodencio's contention that they were irrigating their farm up to the late hour of 9:00 P.M. on that fatal night is unbelievable since farm workers do not usually work up to that late hours. They had not strictly complied with the requirements of time and place in their alibi by failing to show that they were somewhere else when the crime occurred and that it was physically impossible for them to be at the scene at the covered time.[37] Worth noting is that the distance of the houses of all appellants to the crime scene ranges from as near as 3 meters to as far as 1,500 meters, and their field is about 800 meters away or a mere 15 minute walk therefrom. [38] Although none among the prosecution witnesses presented in the trial proper saw the actual assault by appellants on the victim, yet one witness (Arturo Reglos) testified that appellant Rogelio after leaving the scene returned thereto and hacked the victim on his back one more time.[39] Appellant Jaime's denial of his participation in the killing cannot stand against his positive identification in the scene holding a "panabas" together with other appellants. The denial like alibi is weakened by the overwhelming evidence on record supporting a judgment of conviction.

The circumstantial evidence on record also points to appellants' guilt. Pursuant to Section 3 of Rule 133 conviction may be had on circumstantial evidence considering that the requisites thereof were satisfied herein, to wit:

- there is more than one circumstance
- the facts from which the inference are derived are proven; and
- the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[40]

The following undisputed facts when combined produce a logical conclusion pointing to appellants' culpability: (a) their presence in the scene of the crime at about 6:30 to 7:00 PM, (b) they were holding sharp instruments like bolos or "panabas", (c) they were talking to each other after the hacking of the victim with appellant Benjamin telling his co-appellants that he will be the only one who will admit responsibility, (d) they prevented and threatened the rescuing wife and brothers of the victim to come near the latter's prostrate body,[41] (e) they all left together, (f) they were positively identified by prosecution witnesses, (g) the medical examination showed that the victim's wounds were caused by sharp or sharpened instruments[42] - like the blood-stained "panabas" appellants were seen holding.

Further damaging appellants avowed innocence is the testimony of Arturo Reglos that when he approached the victim who was already lying on the ground soaked in his own blood, the latter told the former that he was hacked and attacked by appellants. The victim even told witness Arturo why the appellants did this to him when he had no fault. This is a clear case of a dying declaration the elements for its admissibility are as follows:

- (a) the declaration must concern the crime and surrounding circumstances of the declarant's death;
- (b) it was made at a time when the declarant was under a consciousness of an impending death;
- (c) the declarant would have been competent to testify had he survived;
- (d) the declaration is offered in any case in which the decedent is the victim.[43]

All these elements are present in this case. The victim's declaration pertains to the hacking incident particularly the identity of his assailants. Such declaration was made when the declarant is certain that his death is at hand, considering the degree of the wounds in his opened skull and that death supervened shortly afterwards. The rules does not require that the declarant must first state explicitly his perception of the inevitability of his death so long as the circumstances would justify a conclusion that he is conscious of his condition.[44] Further, the declarant was not incompetent to testify since he possess personal knowledge of the facts and could make known such knowledge to others - just what he did. Competency to testify means ability to perceived, to retain what has been perceived and to express what has been retained. Thus, the statement of the victim has the vestiges of a dying declaration and even if not, there can be no doubt about its admissibility as part of the *res gestae*. [45]

With respect to the qualifying circumstances of evident premeditation and nighttime, the same were not proven and are not supported by evidence on record. To appreciate evident premeditation three elements must be established:

- (1) the time when the offender determined to commit the crime;
- (2) an act manifestly indicating that the offender had clung to his determination; and
- (3) a sufficient lapse of time between the determination to commit the crime and the execution thereof, to allow the offender to reflect upon the consequences of his act.[46]

The records are bereft of direct evidence that appellants concocted and deliberately executed any plan or preparation to kill the victim.[47] The prosecution failed to prove evident premeditation by evidence as clear as the crime itself.[48] With respect to the circumstance of nighttime, the mere fact that the crime was committed at about 6:30-7:00 p.m. does not prove that appellants used the darkness of the night to facilitate their evil design.[49] Again the record is silent whether appellants took advantage of or purposely sought[50] nocturnity or that it facilitated the perpetration of their felonious acts.[51] Be that as it may, nighttime is absorbed in treachery.[52]

As to the allegation of conspiracy, this is sustained by evidence on record. The victim was first hacked on the back by appellant Benjamin and then almost simultaneously by the other appellants. After the victim fell to the ground with blood oozing from his wounds, appellants were seen talking with each other and even left the crime scene together. Although, conspiracy like the crime must be proven beyond doubt,[53] it need not be established by direct proof.[54] So long as the acts of the conspirators are characterize by unity of purpose, intent and design[55] in order to effect a common unlawful objective-[56] conspiracy exists as such fact may be inferred from the coordinated acts and movements of the co-conspirators.[57] Appellants' action implicitly showed unity of purpose among them - a concerted effort to bring about the death of the victim.[58] Having established conspiracy, all the appellants are answerable as co-principals regardless of their degree of participation.[59] Thus, it becomes secondary[60] and unnecessary to determine who inflicted the fatal wounds-[61] the act of one is the act of all and that all must suffer for their acts.[62]

At any rate, the appeal assails the factual findings of the trial court which are generally accorded great weight and respect on appeal, especially since in this case, such findings are supported by substantial evidence on record.[63] Likewise, the evaluation and assessment of credibility of witness is best left to the trial court judge because of his unique position of having observed that elusive and incommunicable evidence of the witnesses deportment on the stand, which opportunity is denied to the reviewing court.[64] As aptly observed by the trial court:

“[T]he testimonies of the accused and their witnesses, aside from being self-serving, improbable, hard to believe, and (sic) not in accordance with common knowledge and experience of mankind.

“On the other hand, the testimonies of prosecution witness Elizabeth Reglos and the other witnesses Arturo Reglos and Dante Reglos are very revealing, straight to the point, probable and consistent.”[65]

No cogent reasons or material circumstances were shown to have been overlooked, misunderstood or disregarded by the trial court, which if considered will vary the outcome of the case.[66]

Before we conclude, it is erroneous for the trial court to impose on appellants “life imprisonment” as it is nowhere in the scheme of penalties in the Revised Penal Code[67] nor is it a penalty similar to “reclusion perpetua”.[68] The appealed judgment is dated September 1992. As early as 1948, the Court had made it clear that reclusion perpetua is not the same as life imprisonment, and that “no trial judge should mistake one for the other”.[69] This ruling was reiterated in the case of *People v. Baguio* promulgated on April 30, 1991.[70] It is for this reason that Supreme Court Administrative Circular 6-A-92 (dated June 21, 1993) which amended Circular 6-92 (dated October 12, 1992) enjoins trial judges to strictly observe the distinction between life imprisonment and reclusion perpetua in order to curb the erroneous practice of using them interchangeably in the imposition of penalty in serious offenses like murder.

Prior to the Heinous Crimes Law (R.A. 7659) the penalty for murder was “reclusion temporal maximum to death”.[71] In accordance with the graduation of penalties in Article 63, when there is neither mitigating nor aggravating circumstance, as in this case, the penalty is the medium period which is reclusion perpetua.

WHEREFORE, subject to the modification that each appellant shall suffer the penalty of reclusion perpetua and not life imprisonment, the appealed decision of the Regional Trial Court of Guimba, Nueva Ecija convicting appellants Rodencio, Benjamin, Rogelio all surnamed Narca and Jaime Baldelamar of murder and the imposition of the monetary awards are AFFIRMED.

SO ORDERED.

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

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[1] Filed on July 5, 1990 before the RTC of Guimba, Nueva Ecija, Branch 31, presided by Judge Raymundo Z. Annang.

[2] RTC Records, p. 1.

[3] RTC Order dated August 21, 1990, pp. 1-2; RTC Records, p. 41-43.

[4] TSN, Elizabeth Reglos, September 19, 1990, p. 12; RTC Records, p. 53. The next bail hearing, however, was held on October 11, 1990.

[5] TSN, Arturo Reglos, October 11, 1990, p. 1.

[6] RTC Order dated March 13, 1991; RTC Records, p. 173.

[7] RTC Records, p. 175.

[8] RTC Decision dated September 30, 1992 penned by Judge Raymundo Z. Annang.

[9] *Ibid.*, p. 42; RTC Records, p. 546.

[10] *Ibid.*, pp. 32-33; Rollo, p. 165-166.

[11] "Affidavits of Denial" of each of the appellants; Rollo, pp. 113-114, 190-199.

[12] *Lozada v. Hernandez*, 92 Phil. 1051.

[13] Ibid.

[14] Section 8, Rule 112.

[15] Section 3(e), Rule 112.

[16] Sec. 3(d) Rule 112; Mercado v. CA, 245 SCRA 594 (1995); Rodriguez v. Sandiganbayan, 120 SCRA 659 (1983).

[17] Webb v. De Leon, 247 SCRA 652 (1995); Mercado v. CA, supra.

[18] Romualdez, v. Sandiganbayan, 244 SCRA 152 (1995); People v. Gomez, 117 SCRA 72 (1982).

**[19] 255 SCRA 438, 458-459 (1996).**

**[20] 182 SCRA 81, 89-90 (1990).**

[21] Wigmore, Section 1390, p. 110 cited in Fulgado v. CA.

[22] Savory Luncheonette v. Lakas ng Manggagawang Pilipino, 62 SCRA 258, 263-67 cited in Fulgado v. CA, 182 SCRA 81, 87-88 (1990).

[23] Formerly Section 5 of Rule 114.

[24] Circular 12-94 took effect on October 1, 1994.

[25] Article 11 (1) Revised Penal Code; People v. De Gracia, G.R. 112984, November 14, 1996; People v. Tampon, G.R. No. 105583, July, 5, 1996; People v. Cabiles, Sr., et. al., G.R. No. 115216, July 5, 1996.

[26] People v. De Gracia, supra, citing People v. Galit, 230 SCRA 486.

[27] Medical Report, Exh. "A"; RTC Records, p. 153.

[28] People v. Lapura, 255 SCRA 85 (1996); People v. Adonis, 240 SCRA 773 (1995).

[29] See People v. Canuzo, 255 SCRA 497 (1996).

[30] People v. Malabago, G.R. No. 115686, December 2, 1996 citing People v. Verchez, 233 SCRA 174 (1994) and People v. Ruelan, 231 SCRA 630 (1994); People v. Porras, 255 SCRA 514 (1996); People v. Ledesma, 250 SCRA 166 (1995); People v. Silvestre, 244 SCRA 479 (1995).

[31] Rollo, p. 7; TSN, Dr. Diosdado Barawid, December 20, 1990, p. 2.

[32] People v. Santos, 255 SCRA 309 (1996); People v. Halili, 315 Phil. 351; People v. Maceda, 197 SCRA 499 (1991).

[33] People v. Tamparong, Jr., 249 SCRA 584; People v. Nuestro, 310 Phil. 221 cited in People v. de Gracia, supra.

[34] People v. Alvarez, G.R. No. 117689, January 30, 1997; People v. Aliviado, 247 SCRA 300, 309 (1995) citing People v. Gomez, 235 SCRA 444 (1994); People v. Boniao, 217 SCRA 653 (1993); People v. Ybeas, 213 SCRA 793 (1992).

[35] People v. Gregorio, 255 SCRA 380 (1996),

[36] People v. Violin, G.R. No. 114003-06, January 14, 1997; People v. Magana, G.R. No. 105673, July, 26,

1996; *People v. Laurente*, 255 SCRA 543 (1996); *People v. Porras*, *supra.*; *People v. Panlilio*, 255 SCRA 503 (1996).

[37] *People v. Ferrer*, 255 SCRA 19 (1996).

[38] Rollo, pp. 137-138, 170; TSN, Arturo Reglos, October 11, 1990, p. 5; TSN, Jaime Baldelamar, November 21, 1991, pp. 3,14.

[39] Rollo, p. 5.

[40] *People v. Agustin*, 316 Phil. 828; *People v. Sia*, 315 Phil. 73. See also *People v. Cruz*, 134 SCRA 512 (1985); *U.S. v. Villos*, 6 Phil. 510, 511.

[41] TSN, Arturo Reglos, *ibid.*, p. 6.

[42] Rollo, p. 140.

[43] *People v. Hernandez*, 205 SCRA 213, 221 citing *People v. Bocatcat, Sr.*, 188 SCRA 175; *People v. Nabor*, 185 SCRA 615; *People v. Almeda*, 124 SCRA 486; *People v. Balbas*, 122 SCRA 859; *People v. Ortiz & Sousa*, 55 Phil 933.

[44] See *People v. Gonzales*, 210 SCRA 44 (1992); *People v. Newman*, 163 SCRA 496 (1988); *People v. Laureta, Jr.*, 159 SCRA 256 (1988).

[45] *People v. Estera*, 207 SCRA 703 (1992); *People v. Baguio*, 196 SCRA 459 (1991).

[46] Article 14(13), Revised Penal Code; *People v. Belga*, G.R. Nos. 94376-77, July 11, 1996; *People v. Maturgo, Sr.*, 248 SCRA 519; *People v. Silvestre*, *supra.*; *People v. dela Cruz*, 242 SCRA 129; *People v. Buka*, 205 SCRA 567 (1992).

[47] See *People v. Daquipil*, 240 SCRA 314 (1995); *People v. Morin*, 241 SCRA 709 (1995).

[48] *People v. Halili*, *supra.*; *People v. Barros*, 315 Phil. 314.

[49] See *People v. Ferrer*, *supra.*

[50] *People v. Rosario*, 316 Phil. 810.

[51] *People v. Beltran*, G.R. No. 119306, July 31, 1996; *People v. Garcia*, G.R. No. 118824, July 5, 1996; *People v. Ronquillo*, 247 SCRA 793 (1995).

[52] *People v. Abitona*, 240 SCRA 335 (1995).

[53] *People v. Dulatre, Jr.*, 248 SCRA 107 (1995).

[54] *People v. Landicho*, G.R. No. 116600, July 3, 1996; *Arceño v. People*, 256 SCRA 569 (1996); *People v. Salodaga*, 247 SCRA 98 (1995); *People v. Parica*, 243 SCRA 557 (1995).

[55] *People v. Nacional*, 248 SCRA 122 (1995).

[56] *People v. Manzano*, 248 SCRA 239 (1995); *People v. Amania*, 248 SCRA 486 (1995).

[57] *People v. Compil*, 244 SCRA 135 (1995); *People v. Woolcock*, 244 SCRA 235 (1995).

[58] *Sison v. People*, 250 SCRA 58 (1995).

[59] *People v. Torrefiel*, 256 SCRA 369 (1996); *People v. Solon*, 244 SCRA 554 (1995); *People v. Miranday*, 242

SCRA 620 (1995).

[60] People v. Parica, *supra.*; People v. de Roxas, 241 SCRA 369; (1995).

[61] People v. Francisco, 249 SCRA 526 (1995); People v. Miranday, *supra.*

[62] People v. Lopez, 249 SCRA 610; People v. Rivera, 242 SCRA 26 (1995); People v. Mallari, 241 SCRA 113; People v. Panganiban, 241 SCRA 91.

[63] People v. Sapurco, 315 Phil. 561; People v. Vitor, 315 Phil. 419; People v. Quiñones, 315 Phil. 48.

[64] People v. Tan, Jr., G.R. No. 103134-40 November 20, 1996; People v. Tañedo, Jr., G.R. No. 110405, January 2, 1997; People v. Laurente, *supra.*; People v. Sotto, 255 SCRA 344 (1996); People v. Viñas, Jr., 315 Phil. 491; People v. Sgt. Angeles, 315 Phil. 23.

[65] RTC Decision, p. 38; Rollo, p. 68.

[66] People v. Ferrer, *supra.*

[67] People v. Dulatre, Jr., *supra.*

[68] People v. Compendio, Jr., G.R. No. 114002, July, 5, 1996; People v. Baculi, 246 SCRA 756.

[69] People v. Penillos, 205 SCRA 546 (1992) citing People v. Mobe, 81 Phil 58.

**[70] 196 SCRA 459.**

[71] Art. 248, Revised Penal Code; People v. Tañedo, *supra.*; People v. Saliling, 249 SCRA 185 (1995).

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