

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMIL DACIBAR AND WARLITO DICON, ACCUSED-APPELLANTS.*G.R. No. 111286. February 17, 2000*

Ponente: QUISUMBING, J.

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On appeal is the decision dated January 25, 1993 of the Regional Trial Court of Roxas City, Branch 16, in Criminal Case No. C-3690, finding appellants guilty of the crime of murder, imposing upon them the penalty of life imprisonment, ordering appellants to pay, jointly and severally, the heirs of the victim the amount of P50,000.00 as moral damages, P29,000.00 as actual damages, and to pay the costs. Pursuant to Administrative Circular No. 6-22 on the correct application of the penalty of reclusion perpetua, the trial court, on February 2, 1992, rendered an amended decision sentencing appellants to the penalty of reclusion perpetua with its accessory penalties, instead of life imprisonment.[1]

The facts of the case, as summarized by the Office of the Solicitor General and which we find to be supported by the records, are as follows:

"At around nine o'clock in the evening of September 5, 1991, Welda Bacalangco was sitting behind their bed near her husband, Josue, who was sitting at the end of the bed and was lifting the mosquito net. (p. 3, TSN, August 27, 1992 and p. 11, TSN, September 8, 1992) Suddenly, there was an explosion, followed by the sounds of footsteps. (p. 3, TSN, August 27, 1992) Welda looked through their window and saw appellant Warlito Dicon coming out from under their house, stooping and carrying a long firearm. (ibid.) Following him was appellant Ramil Dacibar who was carrying a bolo. (ibid.) Seeing her husband shot, Welda shouted to her children that their father was shot. (ibid.)

Riza who was then washing dishes at the kitchen also heard the gunshot and saw Warlito Dicon holding a long firearm and Ramil Dacibar holding a bolo emerging from under their house. Upon hearing her mother shouting that her father was shot (p. 13, TSN, August 27, 1992) she immediately ran to her father and embraced him. (p. 3, TSN, August 27, 1992) Realizing the predicament of her father, Riza together with her sister, shouted for help. (p. 13, TSN, August 19, 1992)

Riza's uncle came to help. He carried the victim with the intention of bringing the latter to the hospital. (p.4, TSN, August 27, 1992) However, by the time they reached the basketball court, the victim was already dead. Thus, he brought the victim back to the latter's house. (p. 13, TSN, August 19, 1992)"[2]

On June 2, 1992, appellants were charged with the crime of murder under the following information:[3]

"That on or about September 5, 1991 at around 9:00 o'clock in the evening in Brgy. Balighot, Maayon, Capiz, Philippines, the above-named accused, conspiring and helping one another, accused Warlito Dicon y Demelino being armed with a long firearm and accused Ramil Dacibar being armed with a bolo, willfully and feloniously shot one JOSE BACALANGCO with the said firearm, thereby inflicting on the chest and other parts of the body of the said Jose Bacalangco gunshot wounds which caused his death immediately thereafter.

The crime is qualified by treachery and abuse of superior strength and aggravated by nighttime and dwelling."

Upon arraignment, both appellants entered a plea of not guilty.[4] Thereafter, trial on the merits ensued.

The prosecution presented the following witnesses: (1) Dr. Alejandro Orosco, Rural Health Physician of Maayon, Capiz, who conducted the post-mortem examination on the victim and issued the certificate of death stating that the cause of death was "multiple gunshot wounds";[5] (2) Riza Bacalangco, the 17 year-old daughter of the victim; and (3) Welda Bacalangco, the widow of the victim. Both the widow and the daughter of the victim testified they were present in the house when the killing took place. Welda testified also on the expenses they incur: P20,000 for the funeral rites, masses and wake; and P9,000.00 for the coffin and niche, or a total of P29,000.00 in all, for the deceased. For their suffering, she prayed for P30,000.00 as moral damages.

In turn, the defense presented (1) SPO3 Paulino Durana, a member of the Philippine National Police of Maayon, Capiz, who testified on the conduct of the police investigation of the killing; (2) Magdalena Dacibar, an aunt of appellant Ramil Dacibar, who testified that the victim's daughter asked for her help on the night of the incident, and that two of the victim's sons had a previous dispute with her husband; and (3) appellant Warlito Dicon, who testified that he was at his house at the time the victim was killed.

On January 25, 1993, the trial court rendered its decision convicting appellants of the crime of murder. The decretal portion of the decision reads:

"WHEREFORE, in the light of the foregoing, and finding the accused Warlito Dicon y Demelino and Ramil Dacibar guilty beyond reasonable doubt of the crime of Murder, this Court hereby imposes to each of the accused to suffer the penalty of Reclusion Perpetua, with its accessory penalties that carries with it, and to indemnify jointly and severally the heirs of the victim Josue Bacalangco the sum of Fifty-Thousand (P50,000.00) Pesos in moral damages and Twenty-Nine Thousand (P29,000.00) Pesos as actual compensatory damages, and to pay the costs of this proceedings.

SO ORDERED."[6]

Hence, the present appeal. Appellants are now before us, claiming that the trial court committed the following errors:

"I

THE COURT OF ORIGIN ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BECAUSE THE DECISION IS WITHOUT FACTUAL BASES.

II

THE COURT ERRED IN BASING THE DECISION ON INFERENCE.

III

THE COURT ERRED IN NOT GIVING WEIGHT TO THE EVIDENCE AND TESTIMONIES FOR THE DEFENSE.

IV

THE COURT ERRED IN ENTERING THE DEFENSE OF ALIBI. THE DEFENSE IS NOT ALIBI. IT IS THAT DEFENDANTS DID NOT COMMIT THE CRIME."[7]

In their consolidated brief, appellants allege that the trial court's findings are without factual basis. They contend that it was physically impossible for the victim to have been shot from under his house by the appellants. They assail the trial court's finding that the victim's relatives, Welda and Riza Bacalangco, had no reason to implicate

appellants in the crime if they were not the perpetrators thereof. They also question the finding that the motive for the crime was the killing of Warlito Dicon's dog. Their failure to attend the wake of the victim despite their close relationship to him, they say, should not have been taken against them, and they contend that the delay of the victim's wife in naming them as her husband's assailants should have been considered by the trial court. Appellants also claim that the trial court should have favorably considered their non-flight from the locality of the crime, and they assert that the testimony of Magdalena Dacibar that she heard two of the victim's relatives say that the shooting was the victim's fault should have been weighed in their favor. Lastly, they contend that they do not rely on the defense of alibi.

In its brief, the Office of the Solicitor General contends that there is enough circumstantial evidence to establish the culpability of appellants in the killing, and that their defenses of denial and alibi are inherently weak.

Essentially, the core issue in this case is the credibility of witnesses and the sufficiency of circumstantial evidence to convict appellants of the crime charged.

Appellants assail the decision of the trial court for alleged lack of factual basis. They argue that: (1) the presence of powder burns around the gunshot wounds on the victim show that the assailant was inside the house of the victim, not outside; (2) the trajectory of the bullet shows that the assailant was firing from a position on level with the victim, thus negating the claim that he was shot from under the house; (3) the position of the victim and the height of the assailant would have rendered it impossible for the latter to have shot the former from under the house; and (4) the initial blotter report of the victim's wife indicates that the assailants were "unidentified persons" at the time said report was made.[8]

Welda Bacalangco, the victim's wife, testified that her husband, Josue, was sitting at the side of their bed and raising the mosquito net in order to get inside when he was shot.[9] Riza Bacalangco, the victim's daughter, heard the shot and looked out from the area where she was washing dishes and saw appellants come out from under their house.[10] Welda also saw the appellants emerge from under the house when she looked out the window right after her husband was shot, when she heard footsteps underneath the house.[11] She also testified that she heard the gunshot come from the hole in the floor a little further from their feet.[12] This hole, measuring at least twelve by seven inches,[13] was estimated by Welda to be almost two arms' length from where her husband was seated on the bed.[14] The height of the floor of the house from the ground was estimated to be around one meter and six inches, or forty-two inches,[15] while the height of appellant Warlito Dicon, the alleged bearer of the firearm, was estimated by his counsel to be around five feet and four inches, or sixty-four inches.[16]

These circumstances tend to affirm the trial court's finding that appellants were the victim's assailants. The alleged shooter, Warlito Dicon, could easily squat or crouch under the floor of the house in order to clear the twenty-two inch difference between his height and the floor's elevation from the ground. At that position, he would have had to aim his firearm through the hole in the floor at a slanting position, at the victim who was likewise in an oblique position at the side of the bed as he was getting inside the mosquito net at the time. This would explain the level trajectory of the pellets found on the victim's body.

Furthermore, the hole in the floor through which the victim was shot was estimated by Welda Bacalangco to be almost two arms' length from where the victim was seated. Considering that the victim was bent over at the time, the distance between the location of the victim's wounds and the hole in the floor would closely approximate the estimate of the examining physician that the muzzle of the gun was around eighteen to twenty-four inches away from the victim's body.[17] This estimate of the examining physician was based on the presence of powder burns around the entrance of the wounds on the left arm of the victim. Hence, the presence of powder burns on the victim would not negate the trial court's finding that the victim was shot from outside the house, specifically from

under the floor.

In addition, the fact that the first blotter report made by the victim's wife refers to the assailants as "unidentified persons" does not detract from the veracity of her positive identification of appellants as the perpetrators of the crime in a later report, and in the course of trial.[18] In the first place, we have held that entries in the police blotter should not be given undue significance or probative value, as they do not constitute conclusive proof.[19] Secondly, Welda Bacalangco testified that she initially hesitated to identify her husband's assailants during the police investigation due to her fear that her sons might carry out reprisals against appellants.[20] She did tell the police, however, that she would come back to file a case because she knew the identity of the perpetrators.[21] When her sons arrived from sea one week after the killing, Welda gathered all her children and relatives, revealed to them the names of her husband's killers, and admonished them not to resort to any drastic measures.[22] Having done this, she then filed a complaint, this time identifying appellants as the perpetrators of the crime.

The evidence for the defense confirms Welda's claim that she chose not to immediately identify appellants for valid reasons. Defense witness SPO3 Paulino Durana testified that during the police investigation of the incident, Welda Bacalangco told him that she could not yet give the names of the assailants as she still had a "problem." [23] When he asked her what this problem was, she answered that she could not identify the assailants for "security reasons." [24] Instead, she said that she would come back to file a case because she knew the identity of the killers. [25] These findings show that Welda's reluctance to identify the perpetrators in the police blotter was justified by her fear of her kin's wrath against appellants, which would only complicate matters for her family. The initial reluctance of witnesses such as Welda to volunteer information about a criminal case is of common knowledge and has been judicially declared as insufficient to affect credibility, [26] especially when a valid reason exists for such hesitance.

Appellants also allege that the trial court based its decision on inference, and that it did not give weight to the evidence for the defense. They say that the court should have relied on the evidence presented by the parties and should not have made its own conclusions without basis. They find fault in the trial court's statement concerning the prosecution witnesses to the effect that "Considering their relationship, the Court had (sic) no reason to believe for them to (sic) concoct a story and pinning (sic) the guilt of a serious crime as murder to (sic) these two accused if they were in truth and in fact not the perpetrators thereto (sic)." [27]

This statement of the trial court is in accord with our rulings on the matter. We have held that where there is no evidence to indicate that the witness against the accused has been actuated by any improper motive, and absent any compelling reason to conclude otherwise, the testimony given is ordinarily accorded full faith and credit. [28] We find no indicia of improper motive on the part of Welda and Riza Bacalangco when they testified against appellants, in spite of their relationship to the deceased victim. It is settled that in the absence of a showing of improper motive on the part of witnesses, their testimonies are not affected by their relationship to the victim. [29] The earnest desire to seek justice for a dead kin is not served should the witnesses abandon their conscience and prudence and blame one who is innocent of the crime. [30] A witness' relationship to the victim of a crime would even make his or her testimony more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse thereof somebody other than the real culprit. [31]

Appellants urge that the trial court should not have readily believed the allegations of the prosecution witnesses as to why they killed Josue Bacalangco. These allegations, however, were never refuted nor disproved by the defense in the course of trial.

Welda and Riza Bacalangco both testified that the dispute between appellant Warlito Dicon and the victim arose when the latter exchanged his rooster for a dog, which turned out to be that of the former. The dog was later

slaughtered and feasted on by the Bacalangco family. Three days later, Dicon confronted the victim at the basketball court and shouted that he would "have his day also." [32] Throughout the trial, these allegations of the prosecution were never disputed nor questioned, even as appellant Warlito Dicon testified on his behalf. Instead, appellants would haphazardly try to make it appear that other persons had a dispute with the victim, particularly one Ludovico de la Guna, Jr. [33] However, as borne out by the stenographic notes, we find that the testimonies of Welda and Riza Bacalangco were delivered in a convincing and straightforward manner, supporting the veracity of their assertions.

We agree with appellants that their failure to attend the wake of the victim despite there being relatives and neighbors of the latter is not by itself indicative of their guilt of the crime. Likewise, however, the fact that appellants never fled the locality where the crime was committed is not by itself a valid defense against the prosecution's allegations, as the defense would like this Court to believe. [34] Although it is settled that the flight of an accused is competent evidence against him as tending to establish his guilt, there is no law or principle holding that non-flight per se is proof, let alone conclusive proof, of innocence. Much like the defense of alibi, the defense of non-flight cannot prevail against the weight of positive identification of the appellants. [35]

Appellants further allege that the testimony of defense witness Magdalena Dacibar was never appreciated by the trial court. This witness testified that she heard Riza Bacalangco and another member of the household say that the shooting was the victim's fault because he had been handling his firearm at the time. [36] She also testified that two of the victim's sons had an altercation with her family earlier. [37]

We fail to see the witness' point in recalling the dispute between the victim's sons and her family, specifically her husband. Even if such were established, it would not clear the question as to who killed the victim. At best, it would even point to an additional motive on the part of appellant Ramil Dacibar for the killing, as he is a nephew of the husband of Magdalena Dacibar. [38] In addition, the witness stayed for a mere five minutes at the victim's house after she was called by Riza Bacalangco to help them. Whatever aid she offered the victim's family was limited to her telling them not to worry anymore as the victim was already dead and that there was nothing else to be done. Thereafter, she went home. [39]

Within that short span of time immediately after the killing, the victim's family was understandably in a state of shock and could not yet discern what had really happened. As a matter of common observation and knowledge, the reaction or behavior of persons when confronted with a shocking incident varies. [40] Hence, they could not be expected to utter any sort of remark or aside on the incident, even an insensitive one, such as that the victim was at fault for his own death. It would only be later, after Welda and Riza Bacalangco recalled seeing appellants emerge from under their house, that they would realize what had actually transpired.

Moreover, the witness' testimony regarding what she heard Riza Bacalangco and an unidentified relative say about the victim's alleged fault in the killing cannot prevail over the positive identification of appellants as the persons who fled the scene of the crime. Against this, appellants have interposed the defenses of denial and alibi.

Ramil Dacibar in effect interposed the defense of denial. Given the evidence, however, there is nothing to substantiate his denial of complicity in the killing. It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a negative self-serving assertion, which deserves no weight in law. [41]

Warlito Dicon, for his part, testified that he was at his house at the time the incident in question took place. [42] Unquestionably, he invokes the defense of alibi, contrary to his counsel's assertion that all he invoked was denial. [43] His assertion that he was at home at the time the killing took place, however, was not corroborated by anyone else. Dicon's defense of alibi is thus inherently weak as it is wanting in material corroboration. [44] Furthermore, Dicon stated that the distance of his house from that of the victim was only (300) meters, [45] an

easily traversible distance, which cannot discount his presence at the crime scene. For alibi to prosper, an accused must prove that not only was he absent at the scene of the crime at the time of its commission, but also that it was physically impossible for him to be situated at said instance.[46]

While the principal witnesses for the prosecution did not actually see appellants shoot and kill the victim, direct proof of their culpability is not necessary when circumstantial evidence would suffice. The requisites thereof are: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt. For circumstantial evidence to be sufficient to support a conviction, all circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt. Facts and circumstances consistent with guilt and inconsistent with innocence, constitute evidence which, in weight and probative force, may surpass even direct evidence in its effect upon the court.[47]

In the case at bar, we consider the following circumstances established: (1) that the victim's family ate and slaughtered the dog of appellant Warlito Dicon; (2) on account of which the latter subsequently confronted the victim and shouted that he "would have his day also;" (3) the killing of the victim took place, effected by gunshot wounds; and (4) right after the shooting, Welda and Riza Bacalangco both saw appellants Warlito Dicon and Ramil Dacibar emerge from under their house, carrying a long firearm and bolo, respectively. We find that these established circumstances, taken together, form an unbroken chain of events that point to the culpability of appellants, and to no other conclusion except their guilt.

The lackluster defenses of appellants, particularly denial and alibi, fail to cast doubt on the continuous chain of circumstances established by the prosecution. The defenses invoked by appellants cannot prevail over the positive identification by the prosecution witnesses who had no improper motive whatsoever to falsely testify against them.[48] When circumstantial evidence constitutes an unbroken chain of natural and rational circumstances corroborating each other, it cannot be overcome by inconcrete and doubtful evidence, such as that presented by appellants in the case at bar.[49]

Likewise, circumstantial evidence will also serve to establish the degree of participation of each appellant. In its decision, the trial court established the existence of a conspiracy to kill the victim[50] between appellants. It inferred conspiracy from the acts of appellants, which pointed to a joint purpose and design.

We have held that conspiracy need not be established by direct evidence of acts charged, but may and generally must be proved by a number of indefinite acts, conditions and circumstances, which vary according to the purpose accomplished. Previous agreement to commit a crime is not essential to establish conspiracy, it being sufficient that the condition attending its commission and the acts executed may be indicative of a common design to accomplish a criminal purpose and objective. If there is a chain of circumstances to that effect, conspiracy has been established.[51]

Thus, the rule is that conspiracy must be shown to exist by direct or circumstantial evidence, as clearly and convincingly as the crime itself.[52] In the absence of direct proof thereof, as in the present case, it may be deduced from the mode, method and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves when such acts point to a joint purpose and design, concerted action and community of interest.[53] Hence, it is necessary that a conspirator should have performed some overt act as a direct or indirect contribution in the execution of the crime planned to be committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other

co-conspirators.[54]

In the case at bar, it was established that appellant Warlito Dicon had a dispute with the victim over the killing and eating of the formers' dog, as a result of which Dicon verbally threatened the victim with vengeance. The victim was later shot and killed, on which occasion both appellants were seen leaving the scene of the crime carrying a firearm and a bolo, emerging from under the victim's house.

These circumstances, proved by the evidence, indicate a conspiracy to kill the victim. The fact that immediately after the killing, both appellants were seen emerging from under the victim's house - a place where they had no business to be at 9'o-clock in the evening - indicates that a particular, deliberate and planned method of attack was employed by them to kill the victim. And while it was not determined who fired the fatal shot, it was established that both appellants left the house together, indicating a joint purpose and design, concerted action and community of interest between appellants. If one of the two shot the victim, the other was nonetheless present at the scene of the crime, undoubtedly to lend some form of moral and material assistance to the actual assassin - another badge of conspiracy. Thus, appellants as conspirators are equally liable for the crime as it is unnecessary to determine who inflicted the fatal wounds because in conspiracy the act of one is the act of all.[55]

In finding appellants guilty of murder, the trial court ruled that the crime was qualified by treachery, premeditation, superior strength, nighttime and dwelling, although it said that premeditation, superior strength and nighttime were absorbed by treachery.[56]

We agree that treachery attended the commission of the crime. Treachery is present when the shooting was unexpected and sudden, giving the unarmed victim no chance whatsoever to defend himself.[57] The two conditions for treachery to be present are (1) that at the time of the attack, the victim was not in a position to defend himself and (2) the offender consciously adopted the particular means, method, or form of attack employed by him.[58]

In the case at bar, the victim had absolutely no idea that he was going to be shot as he went to bed, from under his own house at that. He was not in a position to defend himself, being unaware and unexpectant of an attempt on his life, in the particular manner purposely adopted by appellants. Clearly, he was killed in a treacherous manner. The circumstance of treachery, however, absorbs the aggravating circumstances of superior strength and nighttime.[59] We cannot appreciate the existence of evident premeditation as the trial court did, as there is no proof as to when appellants determined to kill the victim, and which acts manifested that they clung to this nefarious scheme. Furthermore, the attendance of evident premeditation as an aggravating circumstance was not alleged in the information filed against appellants.[60]

The trial court was correct in appreciating the aggravating circumstance of dwelling. Although the triggerman fired the shot from outside the house, his victim was inside. For the circumstance of dwelling to be considered, it is not necessary that the accused should have actually entered the dwelling of the victim to commit the offense; it is enough that the victim was attacked inside his own house, although the assailant may have devised means to perpetrate the assault from without.[61] Thus, in the case at bar, although the attack was made not from inside the house but from below the floor of the house, nevertheless, the aggravating circumstance of dwelling may be considered as attending the shooting,[62] as in fact the target/victim was hit inside his own house.

The aggravating circumstance of dwelling was considered by the trial court in imposing the maximum penalty upon appellants for the crime of murder qualified by treachery. At the time of the commission of the offense at bar, the imposable penalty for murder was reclusion temporal in its maximum period to death, the maximum thereof being death. With the non-effectivity of the death penalty at the time, the trial court imposed the penalty of reclusion perpetua upon appellants. We are in full accord with said penalty.

On the matter of damages, we note that the trial court ordered appellants to jointly and severally pay the heirs of the victim P50,000.00 for moral damages. We find this award supported by testimony in the records but only in the amount of P30,000.00. Pursuant to current jurisprudence,[63] we also find that the heirs of the victim are entitled to a death indemnity of P50,000.00. We further find the award of P29,000.00 as actual damages in order. Lastly, considering that the crime was attended by the aggravating circumstance of dwelling,[64] the amount of P20,000.00 should also be awarded as exemplary damages.

WHEREFORE, the decision dated January 25, 1993, amended on February 2, 1993, of the Regional Trial Court of Roxas City, Branch 16, finding appellants guilty of Murder and sentencing them to reclusion perpetua is AFFIRMED WITH MODIFICATION, in that appellants are ordered to pay jointly and severally the heirs of the victim Josue Bacalangco, the amounts of P50,000.00 as death indemnity, P29,000.00 as actual damages, P30,000.00 as moral damages and P20,000.00 as exemplary damages. Costs against appellants.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and De Leon, Jr., JJ., concur.
Buena, J., on official leave.

[1] Rollo, pp. 20-31.

[2] Id. at 94-96.

[3] Id. at 9.

[4] Records, p. 69.

[5] TSN, August 19, 1992, p. 3; Records, p. 145.

[6] Supra, note 1 at 31.

[7] Id. at 44.

[8] Id. at 52-56.

[9] TSN, September 8, 1992, p. 5

[10] TSN, August 19, 1992, p. 13.

[11] TSN, August 27, 1992, p. 3.

[12] Ibid.

[13] Supra, note 9 at 10.

[14] Id. at 11.

[15] Id. at 4.

[16] Rollo, p. 54.

[17] Supra, note 10 at 9-10.

[18] Records, p. 209.

[19] Santiago v. Court of Appeals, 295 SCRA 334, 354 (1998).

- [20] TSN, September 8, 1992, pp. 12, 14, 15.
- [21] Id. at 13.
- [22] Id. at 15-16.
- [23] TSN, September 10, 1992, pp. 9, 13.
- [24] Id. at 15.
- [25] Supra, note 21.
- [26] People v. Lising, 285 SCRA 595, 641 (1998).
- [27] Rollo, p. 27-A.
- [28] People v. Solis, 291 SCRA 529, 539 (1998).
- [29] People v. Guillermo, 302 SCRA 257, 271 (1999).
- [30] People v. Realin, 301 SCRA 495, 510 (1999).
- [31] People v. Villanueva, 302 SCRA 380, 399 (1999).
- [32] TSN, August 19, 1992, p. 13-14; TSN, August 27, 1992, p. 4.
- [33] TSN, October 22, 1992, p. 6, 9.
- [34] Rollo, pp. 57-58.
- [35] People v. Gementiza, 285 SCRA, 478, 487 (1998).
- [36] TSN, October 15, 1992, p. 5, 6, 14.
- [37] Id. at 8, 12.
- [38] Id. at 10.
- [39] Id. at 6.
- [40] People v. Aranjuez, 285 SCRA 466, 474-475 (1998).
- [41] People v. Atop, 286 SCRA 157, 174 (1998).
- [42] TSN, October 22, 1992, p. 3.
- [43] Rollo, p. 59.
- [44] People v. Sanchez, 302 SCRA 21, 47 (1999).
- [45] Supra, note 42 at 4, 10.
- [46] People v. Villanueva, 302 SCRA 380, 394-395 (1999).
- [47] People v. Mahinay, 302 SCRA 455, 469 (1999).
- [48] People v. Reyes, 287 SCRA 229, 243 (1998).
- [49] People v. Mendoza, 301 SCRA 66, 82 (1999).
- [50] Rollo, pp. 29-30.

- [51] People v. Maranion, 199 SCRA 421, 432 (1991).
- [52] People v. Trinidad, 162 SCRA 714, 725 (1988).
- [53] People v. Datun, 272 SCRA 380, 389 (1997).
- [54] People v. Berroya, 283 SCRA, 111, 129 (1998).
- [55] People v. Baniel, 275 SCRA 472, 485, 486 (1997).
- [56] Rollo, p. 29.
- [57] People v. Delmendo, 296 SCRA 371, 380 (1998).
- [58] People v. Gutierrez, Jr., G.R. No. 116281, February 8, 1999, p. 23.
- [59] People v. Broncano, 260 SCRA 724, 738 (1996).
- [60] Supra, note 3.
- [61] People v. Ompad, 26 SCRA 750, 760 (1969).
- [62] People v. Albar, 86 Phil. 36, 42 (1950).
- [63] People v. Verde, G.R. No. 119077, February 10, 1999, p. 17.
- [64] People v. Gutierrez, G.R. No. 116281, February 8, 1999, p. 27.

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