

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO DE LA CRUZ Y BALUGA, CHARLIE TULALI Y CERIA, RODOLFO TULALI Y UY, MAX LACUBAN Y PALATTAO, ELIGIO LACUBAN Y PALATTAO, R...

G.R. No. 111568. March 02, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In the morning of 13 October 1981, a group of soldiers brought the bodies of two men to the Integrated National Police (INP) Station at Tuao, Cagayan. [1] One of the corpses, which was identified as that of Rizal Saldino, the barangay captain of Sicatna, Piat, Cagayan, bore thirteen gunshot wounds, four stab wounds, and two contusions. [2] The other, identified as that of Jaime Ceria, bore four gunshot wounds, five stab wounds, five lacerated wounds, five abrasion wounds, and three contusions. [3]

For the deaths of the victims, appellant Alberto de la Cruz and co-accused Charlie Tulali, Rodolfo Tulali, Max Lacuban, Manuel Lacuban, Eligio Lacuban, Romeo Amorsolo, Ramon Amorsolo, and several John Does were charged in a criminal complaint [4] filed with the 7th Municipal Circuit Court (MCC) at Piat, Cagayan, with the crime of "Kidnapping with Double Murder." The complaint was amended to include a Philippine Constabulary (PC) officer, 2nd Lt. Armando C. Dolor, and PC soldiers C2C Edgar Reformoso, C2C James Barcelona, C2C Manuel Resuello, and C2C Vivencio del Rosario. [5]

On 11 January 1982, the MCC forwarded the case to the Court of First Instance (now Regional Trial Court) of Tuao, Cagayan, Branch 3, [6] which docketed the case as Criminal Case No. 726-T. [7] On 1 February 1982, the said court referred the case to the Provincial Fiscal for appropriate action. [8]

On 24 March 1982, the trial court granted [9] the prosecution's motion for the transfer of the records of the case to the Judge Advocate General's Office (JAGO) of the Armed Forces of the Philippines (AFP) on the ground that the case falls within the exclusive jurisdiction of courts-martial pursuant to P.D. No. 1822-A. [10] The motion to reconsider the order of transfer, filed by the accused civilians, was granted and their case remained with the court. [11] Subsequently, an information was filed with the Regional Trial Court (RTC), Branch 11, Tuao, Cagayan, charging the accused civilians with "Kidnapping with Double Murder." [12]

In the course of the trial of the case against the accused civilians, the JAGO referred to the Minister of Justice the case against the accused constabulary officer and men on the ground that the offense charged had already prescribed pursuant to Article 38 of the Articles of War, and that, hence, the constabulary personnel were no longer amenable to trial by courts-martial. Chief State Prosecutor Artemio Tuquero, in turn, remanded the letter of the JAGO to the Provincial Fiscal of Cagayan for his immediate consideration. [13]

Conformably with P.D. No. 1850 which provides that civil courts shall have jurisdiction over the accused when the offense has prescribed under Article 38 of the Articles of War, the Provincial Fiscal of Cagayan filed an

Amended Information in Criminal Case No. 726-T including as co-accused 2nd Lt. Armando Dolor, C2C Edgar Reformoso, C2C James Barcelona, C2C Manuel Resuello, and C2C Vivencio del Rosario, which was further amended through a Second Amended Information to include SN2 Ramon Amorsolo. [14] The accusatory portion of the Second Amended Information reads:

That on or about October 12, 1981, in the municipality of Piat, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Alberto dela Cruz y Baluga, Charlie Tulali y Ceria, Rodolfo Tulali y Uy, Max Lacuban y Palattao, Eligio Lacuban y Palattao, Romeo Amorsolo y Sabanga, all private persons and 2nd Lt. Armando C. Dolor, SN2 Ramon Amorsolo y Sabangan, C2C Edgar Reformoso y Hugo, C2C James Barcelona y Berona, C2C Manuel Resuello y Rombaoa and C2C Vivencio del Rosario y Ricafort, all members of the Armed Forces of the Philippines, armed with bolos, knives and guns, conspiring together and helping one another, without any authority of law, did then and there wilfully, unlawfully and feloniously by means of force, violence and intimidation, kidnap and carry away Barangay Captain Rizal Saladino and Jaime Ceria from their respective residences and brought them to the residence of Leling Lacuban where they detained and deprived them of their liberty, and while thereat, the said Barangay Captain Rizal Saladino and Jaime Ceria were again attacked, assaulted and maltreated, and after which, the above-named accused, in further pursuing their conspiracy as stated above, brought the said Barangay Captain Rizal Saladino and Jaime Ceria to the bound[a]ry of Gumarueng, Piat, Cagayan, and while thereat, with intent to kill, with evident premeditation and with treachery and taking advantage of their superior strength, did again attack, assault, maul and shoot the said Rizal Saladino and Jaime Ceria, inflicting upon both of them wounds on the different parts of their bodies which caused their death to the damage and prejudice of the heirs of said Rizal Saladino and Jaime Ceria in such amount as may be awarded them under the law.

Contrary to law.

Warrants for the arrest of the accused constabulary officer and men were issued on 11 June 1985. [15]

On 22 July 1985, the trial court granted the accused civilians' motion for a separate trial since their co-accused PC officer and men had not yet been arrested. [16] An examination of the records discloses that SN2 Ramon Amorsolo was killed on 13 April 1986, [17] and that 2nd Lt. Armando Dolor was dropped from the information in an order dated 17 July 1990 [18] upon the recommendation of Provincial Prosecutor Alejandro Pulido on the ground that there was no sufficient evidence to warrant his inclusion as one of the accused. [19] There is nothing more in the records that would suggest that the other soldiers had already been arrested.

As culled from the testimonies of Segismundo Saldino, Esmenia Ceria-Saldino, Lucena Narag-Ceria, and Manes Narag, the version of the prosecution is as follows:

At past 6:00 p.m. of 12 October 1981, a group of soldiers and armed civilians went to the houses of Rizal Saldino and Jaime Ceria at Sicatna, Piat, Cagayan. The civilians were herein appellant Alberto de la Cruz and his co-accused, namely, Manuel Lacuban, Max Lacuban, Eligio Lacuban, Charlie Tulali, Rodolfo Tulali, and Romeo Amorsolo. The group searched for firearms. [20] The appellant, however, had another purpose. While at the residence of the Saldinos, he took some documents pertaining to the parcel of land which was the subject of litigation between his father and Rizal. [21]

Afterwards, Rizal and Jaime, as well as Rizal's son, Segismundo Saldino, were taken to the house of Eligio Lacuban, which was also located at Sicatna. There, the two victims were repeatedly boxed and struck with rifle butts by the appellant, Manuel, Romeo, SN2 Ramon Amorsolo, and other soldiers. [22]

At around midnight, the group brought Rizal and Jaime to a place called "slide," situated near the boundary of

Dugayong and Gumarueng, Piat, Cagayan. Upon arrival, Romeo told the appellant, "Boy, you be the first to kill Rizal Saldino." The appellant forthwith stabbed Rizal on the left side of his stomach, and all the other accused civilians followed suit. Then they turned their attention to Jaime. Charlie skinned the sole of Jaime's foot, and the group made the victim walk on a thorny path. The soldiers then took turns maltreating the victims and, later, ordered them to sit on a culvert. [23]

At this point, Segismundo Saldino, who was also brought along with the victims, was ordered by one of the soldiers to go home. He was then able to run away without arousing the attention of the other members of the group. After going a distance of about ten meters, he dashed back, hid himself in the thick bushes, and peeped to see what was being done to his father and uncle. In the next instant, he saw the two gunned down by Alberto, Romeo, and the soldiers. [24]

The accused civilians put up the defense of denial and alibi.

Appellant Alberto de la Cruz testified that in the evening of 12 October 1981, he was fetched by Romeo Amorsolo on orders of Lt. Dolor, who suspected him to be a member of the New People's Army (NPA). When he arrived at the house of Eligio Lacuban, he told the lieutenant that he was not an NPA member, and so, was sent home. He could not have participated in the slaying of Rizal Saldino and Jaime Ceria as he was already at his house in Centro, Piat, when the incident occurred. Segismundo Saldino must have falsely implicated him because his father, Luis de la Cruz, acted as a witness for Manuel Lacuban in the land dispute between the latter and Rizal Saldino. [25]

The other accused, Manuel Lacuban, Rodolfo Tulali, and Charlie Tulali also denied having taken part in the crime. They, however, admitted that they were at the house of Eligio Lacuban on the fateful night of 12 October 1981, as they were all asked by Eligio to butcher a dog in order to feed the soldiers. Present at Eligio's residence were soldiers as well as civilians namely, Romeo Amorsolo and his brother Ramon Amorsolo, Rizal Saldino, Jaime Ceria, Segismundo Saldino, Lucena Narag-Ceria, and several others. [26]

Charlie testified that it was Romeo who mauled Rizal and Jaime. [27] Manuel, on the other hand, said that Ramon and the soldiers also took part. He further declared that the purpose of the maltreatment was to compel the victims, who were suspected of being NPA members, to reveal the hiding place of the firearms allegedly in their possession, and that the Amorsolo brothers participated, believing that the two victims were the ones who had kidnapped their father, Orlando Amorsolo. [28]

Manuel and Rodolfo were one in saying that the appellant was also at Eligio's residence on that fateful night, and that after taking their supper of rice and dog meat, the appellant, the Amorsolo brothers, and the soldiers left, bringing along with them the two victims. All the others, including them, stayed behind and then headed for home. [29]

After trial, the RTC rendered a decision dated 13 April 1993, [30] the dispositive portion of which reads:

WHEREFORE, finding the guilt of accused Manuel Lacuban, Rodolfo Tulali, and Charlie Tulali not to have been established beyond reasonable doubt, a verdict of ACQUITTAL is hereby entered in their favor.

As regards accused Max Lacuban, Eligio Lacuban and Romeo Amorsolo, who died during the pendency of the case, their case is hereby DISMISSED.

As regards accused Alberto dela Cruz, the Court finds that the evidence of record is sufficient to prove his guilt for the offense of Murder (two counts) beyond reasonable doubt and hereby sentences him to suffer two life imprisonment. He is also ordered to pay the costs.

SO ORDERED. [31]

It found as follows:

From the foregoing versions of the prosecution and the defense, the following facts appear to be well established:

- Both victims Rizal Saldino and Jaime Ceria were taken by a group of armed PC soldiers led by one Lt. Dolor from their own house in Sibatna, Piat, Cagayan in the early evening of October 12, 1981 and brought to the house of accused Eligio Lacuban also in Sibatna. The two victims were boxed and hit or otherwise maltreated while in the house of Eligio Lacuban.
- A search of the house of Rizal Saldino and Jaime Ceria was made by the PC soldiers, who suspected the two to be members of the NPA, to look for guns allegedly possessed by them.
- After eating supper consisting of cooked dog meat and rice, the PC soldiers took away the two victims.
- The following day both victims were brought dead to the Tuao INP Station by a group of PC Soldiers led by Lt. Dolor and the latter reported that both victims were killed in an encounter with the PC soldiers. Two firearms, shotgun and single-shot gun known as "pik pok" were also shown by Lt. Dolor to the Tuao INP authorities (Exh. 7 - Rodolfo Tulali and Manuel Lacuban). The two victims suffered several gunshot wounds, stab and hacked wounds and some contusions and hematoma. A number of these wounds were inflicted on the back of both victims.

The Court has no doubt that both victims were killed after they were taken away by the PC soldiers from the house of Eligio Lacuban in the evening of October 12, 1981. They were killed by the PC soldiers in cold blood. [32]

As regards the participation of the accused civilians, more specifically the appellant, the trial court ruled thus:

Segismundo Saldino, the lone eyewitness to the killing insists that all the herein accused took part therein by individually and repeatedly stabbing the two victims. He also stated that Alberto dela Cruz shot his father whereas accused Charlie Tulali skinned the sole of victim Jaime Ceria before the latter was made to walk on a thorny path.

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The Court finds the testimony of Segismundo Saldino more credible. Despite rigorous cross examination by different defense counsel, Segismundo's testimony remains unshaken as regards the participation of the accused Alberto dela Cruz and Charlie Tulali in the killing of both victims. The Court is not convinced that the mere fact that Luis dela Cruz (Alberto's father) was a witness in the land dispute between Rizal Saldino and Manuel Lacuban the existence of which land dispute is denied by Manuel Lacuban, is enough reason for Segismundo Saldino to falsely implicate Alberto dela Cruz in the killing of the two victims. If that were so, why did Segismundo Saldino not also implicate all those who testified against his father in the land case? Furthermore, that theory is disputed, albeit impliedly, by accused Manuel Lacuban when he testified that there was no land dispute between him and Rizal Saldino. Neither is the Court persuaded by the explanation offered by dela Cruz for his presence at the house of Eligio Lacuban on that fateful night of October 12, 1981. He claims that he was fetched upon orders of PC Lt. Dolor because he was suspected to be a member of the NPA, and was sent home by Lt. Dolor after denying that he was a member of the NPA. He was not maltreated by the soldiers. If the said claim of dela Cruz is true, why was he spared of maltreatment whereas the two victims, who were likewise suspected to be NPA members were repeatedly boxed, kicked and butted with guns when they denied the charge that they were NPA members. [I]s dela Cruz claiming that the P.C. soldiers were selective in their treatment of the suspects? The credibility of such claim of dela Cruz is too suspect to do him much good. Finally, his going with the PC soldiers,

after lea[v]ing Lacuban's house is testified to by his co-accused Manuel Lacuban and Rodolfo Tulali. [33]

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On the other hand, the testimony of Segismundo as regards the participation of Alberto dela Cruz and Romeo Amorsolo appear to be logical, reasonable and consistent with ordinary course of events. Of all the accused, both Romeo Amorsolo and Alberto dela Cruz had individual, if independent, motives to do away with the two victims. Furthermore, the participation of both Romeo Amorsolo and Alberto dela Cruz in the killing of the two victims do not appear unbelievable for being too gruesome or cruel, but instead appears to be very logical and believable. Inexorably, the Court finds their guilt to be established beyond reasonable doubt. However, as regards Romeo Amorsolo such finding is no longer important since he died during the pendency of the case. [34]

Appellant Alberto de la Cruz appealed from the judgment and, in his eight-page brief, makes the following assignment of errors:

- THE LOWER COURT ERRED IN CONVICTING APPELLANT ALBERTO DELA CRUZ.
- THE LOWER COURT ERRED IN COMMITTING JUDICIAL INCONSISTENCY REGARDING ITS OWN EVALUATION OF EVIDENCE AND APPRECIATION OF FACTS.
- THE LOWER COURT ERRED IN NOT FINDING APPELLANT ALBERTO DELA CRUZ INNOCENT OF THE CRIME CHARGED AGAINST HIM AS THE EVIDENCE AND FACTS SHOW. [35]

In support thereof, the appellant argues that the trial court contradicted itself when after finding that the PC soldiers killed the victims in cold blood, it convicted him. The trial court was likewise being inconsistent when after it discredited Segismundo's testimony that Charlie Tulali skinned the foot of Jaime Ceria, it considered logical Segismundo's testimony that the appellant was among those who killed the victims. He insists that Segismundo Saldino did not even witness the killing because, as testified to by accused Manuel Lacuban, Segismundo slept in his (Manuel's) house on the night of 12 October 1981.

The appellee disagrees with the appellant and contends that the finding of the trial court on the culpability of the PC soldiers was only a partial determination of the persons responsible for the death of the victims for, as a matter of fact, the trial court specifically discussed the participation of the appellant. On the charge of judicial inconsistency, the appellee maintains that the maxim falsus in uno, falsus in omnibus invoked by the appellant is no longer accepted entirely by modern jurisprudence [36] -- it is neither a positive rule of law nor one of universal application. The testimony of a witness may be believed in part and disbelieved in part. [37] As to Manuel Lacuban's testimony, the same deserves scant consideration, coming as it does from an accused who would naturally try to controvert incriminating testimony.

We agree with the appellee.

Indeed, the trial court could not have meant from its statement that the victims "were killed by the PC soldiers in cold blood" to exclude the participation of the accused civilians, particularly the appellant. It, in fact, went into the details of the appellant's participation as established by the testimony of Segismundo Saldino. It explained the reasons why it gave credit to such testimony and disregarded the appellant's version of the events and ultimately reached the following conclusion:

Of all the accused, both Romeo Amorsolo and Alberto dela Cruz had individual, if independent, motives to do away with the two victims. Furthermore, the participation of both Romeo Amorsolo and Alberto dela Cruz in the killing of the two victims do not appear unbelievable for being too gruesome or cruel, but instead appears to be very logical and believable. Inexorably, the Court finds their guilt to be established beyond reasonable doubt.

However, as regards Romeo Amorsolo such findings is no longer important since he died during the pendency of the case. [38]

Nor did the trial court err when it considered only part, while discrediting the rest, of the testimony of Segismundo Saldino. The maxim *falsus in uno, falsus in omnibus* is not a mandatory rule of evidence but rather a permissible inference that a court may or may not draw. It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to others. Even when witnesses are found to have deliberately falsified in some material particulars, it is not required that the whole of their uncorroborated testimony be rejected, but such portions thereof deemed worthy of belief may be credited. [39] Professor Wigmore [40] even said that

the maxim is in itself worthless -- first, in point of validity, because in one form it merely contains in loose fashion a kernel of truth which no one needs to be told, and in the others it is absolutely false as a maxim of life; and secondly, in point of utility, because it merely tells the jury what they may do in any event, not what they must do or must not do, and therefore it is a superfluous form of words. It is also in practice pernicious, first, because there is frequently a misunderstanding of its proper force, and secondly, because it has become in the hands of many counsel a mere instrument for obtaining new trials upon points wholly unimportant in themselves.

The trial court also properly disregarded Manuel Lacuban's testimony that Segismundo Saldino could not have witnessed the killing because Segismundo slept in the former's house on the night of 12 October 1981. Manuel's testimony does not fare well, coming as it does from a polluted source, that is, from one of the accused who was thus disposed to destroy or, at the least, plant a seed of doubt on the inculcating testimony of the eyewitness, specifically, as to his presence at the crime scene. Moreover, it is belied not only by the declaration of Segismundo but also by that of Lucena Ceria that the victims and Segismundo Saldino were brought by the accused from the house of Eligio Lacuban to the boundary of Dugayong and Gumarueng. [41]

But was the trial court correct in finding the appellant guilty of murder on two counts and not of kidnapping with murder as charged?

The trial court held that there was no kidnapping because "when the two victims were taken from their respective houses the purpose of the armed men was to kill them and not to deprive them of their liberty." Under Article 267 of the Revised Penal Code, [42] the primary element of kidnapping is the actual confinement or restraint of the victim, or the deprivation of his liberty. [43] There has been no clear and categorical ruling as to the criminal liability of persons who first kidnap the victim and kill him later. [44] Each case must be determined in the light of the facts established therein. The facts proved in this case show that the objective of the assailants was to force the victims to surrender the firearms allegedly in their possession and not to deprive them of their liberty. Accordingly, the former's criminal liability in killing the victims afterwards would be for two separate crimes of murder.

The challenged decision, however, did not explain why the appellant should be held liable for two counts of murder. Nor did it award civil indemnity.

Section 2, Rule 120 of the Rules of Court provides that if the judgment is one of conviction, the same must state, *inter alia*, (1) the legal qualification of the offense constituted by the acts committed by the accused, and the aggravating or mitigating circumstances attending the commission thereof, if there are any; and (2) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there is any unless the enforcement of the civil liability by a separate action has been reserved or waived.

The information alleges that the killing was attended by evident premeditation, treachery, and abuse of superior

strength. The trial court should have explicitly determined which of these qualifying circumstances attended the killing of the victims.

Before evident premeditation can be appreciated, the following elements must be proved: (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. [45]

It is not disputed that Rizal Saldino and Jaime Ceria were seized from their respective residences at past 6:00 p.m. of 12 October 1981 and slain at past 3:00 a.m. of the next day. [46] Nine hours had therefore elapsed from the taking to the killing, but this long interval of time does not sufficiently prove the existence of evident premeditation. It was testified that when the group of soldiers and civilians entered the respective houses of Rizal and Jaime, they first searched for firearms and then maltreated the victims to compel them to reveal to the group the hiding place of the firearms allegedly possessed by them. [47] It is not clear then when the plan to kill the victims was hatched.

Nor was treachery proved to have attended the commission of the crime. There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make. [48] There is no sufficient evidence that the assailants did so. Besides, at the time the assailants entered their houses, Rizal and Jaime must have reasonably perceived that an assault was forthcoming.

What is borne out by the evidence is a case of abuse of superior strength. Considering the greater number of the assailants and their weapons, the two victims were clearly no match for them. The culprits obviously took advantage of their combined strength as proved by the number of stab and gunshot wounds inflicted on the victims.

Under Article 248 of the Revised Penal Code, abuse of superior strength qualifies the killing to murder, which is punishable by reclusion temporal in its maximum period to death. There being no other aggravating or mitigating circumstance, the penalty should be imposed in its medium period, which is reclusion perpetua. [49]

Instead, however, of imposing reclusion perpetua, the trial court imposed life imprisonment. We have stated time and again that life imprisonment is not the same as reclusion perpetua and admonished judges to employ the proper legal terminology in the imposition of penalties because of their different accompanying legal accessories and effects. [50] It is exasperating to find trial judges still ignoring the admonition.

Since there is nothing in the records that will indicate that a civil action to enforce the civil liability arising from the death of the victims was instituted independently of this criminal case, or that the right to file the same was waived or reserved, the civil action is deemed impliedly instituted with the criminal action. [51] Accordingly, the appellant should be sentenced to pay a civil indemnity of P50,000.00 to the heirs of Rizal Saldino and another P50,000.00 to the heirs of Jaime Ceria in conformity with current jurisprudence.

We cannot end this case without expressing extreme displeasure at the lack of further action against the accused soldiers after an order for their arrest was issued on 11 June 1985. It would appear that until now they are still at large. There should be no double standard in law enforcement and in the administration of justice. The full force of the law must equally reach civilians and military personnel. Accordingly, the trial court must exert all its efforts to bring the accused soldiers under its jurisdiction and to try the case against them with reasonable dispatch.

WHEREFORE, the appealed judgment in Criminal Case No. 15-T of Branch 11 of the Regional Trial Court at

Tuao, Cagayan, convicting appellant ALBERTO DE LA CRUZ of the crime of murder on two counts is AFFIRMED with the MODIFICATION that the penalty of life imprisonment imposed in each count of murder is changed to reclusion perpetua, and that the appellant is further ordered to pay a civil indemnity of P50,000.00 to the heirs of Rizal Saldino and another P50,000.00 to the heirs of Jaime Ceria.

Upon the finality of this decision, the Clerk of Court shall cause the immediate remand of the records of this case to the trial court for further proceedings against the accused PC soldiers.

Costs against the appellant.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Exhibit "7."

[2] Exhibits "A" and "A-1"; Original Records (OR), Book I-1, 3, 219.

[3] Exhibit "G."

[4] OR, Book I-1, 1-2; Rollo , 11-12.

[5] Id., 50-51; Id., 13-14.

[6] OR, Book I-1, 125.

[7] For undisclosed reasons, starting with the order of 18 September 1984 (Id., 353), this docket number was renumbered as Criminal Case No. 15-T (726-T) of Branch 11 of the trial court at Tuao, Cagayan. Thereafter, notices, orders, and pleadings of the parties used either the new docket number or only Criminal Case No. 15-T. The decision itself uses this latter number.

[8] Id., 137.

[9] Id., 140.

[10] OR, Book I-1, 138.

[11] Id., 159.

[12] Id., 171, 183.

[13] Id., Book II, 226-227.

[14] OR, Book II, 230, 235.

[15] Id., Book 1-2, 570.

[16] Id., 609.

[17] TSN, 14 April 1986, 2.

[18] OR, Book 1-3, 971.

[19] Id., 960.

[20] TSN, 31 July 1984, 3-5, 8; TSN, 16 May 1986, 9-10, 20-21; TSN, 27 August 1986, 3-4; TSN, 11 February

1988, 3-4.

[21] TSN, 31 July 1984, 5-6; TSN, 16 May 1986, 10.

[22] TSN, 31 July 1984, 10-13; TSN, 27 August 1986, 7-11; TSN, 11 February 1988, 7, 12.

[23] TSN, 31 July 1984, 16-17; 24-26.

[24] Id., 26, 34-37; TSN, 24 October 1984, 9-12.

[25] TSN, 11 February 1993, 13-16.

[26] TSN, 3 April 1989, 4-7; TSN, 6 November 1989, 3-6; TSN, 11 February 1993, 3-4.

[27] TSN, 11 February 1993, 4, 8.

[28] TSN, 6 November 1989, 6-10.

[29] TSN, 10 April 1989, 7-8; TSN, 6 November 1989, 13-14.

[30] Per Judge Orlando D. Beltran.

[31] OR, Book 1-3, 1159; Rollo , 38.

[32] OR, Book 1-3, 1164-1165; Rollo , 35-36.

[33] OR, Book 1-3, 1165-1166; Rollo , 36-37.

[34] Id., 1167; Id., 38.

[35] Rollo , 44.

[36] Citing *People vs. Surban*, 123 SCRA 218 [1983].

[37] Citing *People vs. Pacis*, 130 SCRA 540 [1984].

[38] OR, Book 1-3, 1167; Rollo , 38.

[39] *People vs. Dasig*, 93 Phil. 618 [1953]; *People vs. Pacada*, 142 SCRA 427 [1986]; *People vs. Osias*, 199 SCRA 574 [1991]; *People vs. Ducay*, 225 SCRA 1 [1993].

[40] J.H. WIGMORE, *Evidence in Trials at Common Law*, 3rd ed., Section 1008, cited in *People vs. Ducay*, *supra*.

[41] TSN, 31 July 1984, 16-17; TSN, 27 August 1986, 11.

[42] It defines and penalizes kidnapping and serious illegal detention.

[43] RAMON C. AQUINO, *The Revised Penal Code*, vol. III, 1988 ed., 4, citing *People vs. Suarez*, 82 Phil. 484 [1948]; *People vs. Ching Suy Siong*, 96 Phil. 975 [1955]; *People vs. Ablaza*, 30 SCRA 173 [1969].

[44] Id., vol. II, 1987 ed., 557.

[45] *People vs. Boniao*, 217 SCRA 653 [1993]; *People vs. Salveron*, 228 SCRA 92 [1993]; *People vs. Bongadillo*, 234 SCRA 233 [1994].

[46] TSN, 31 July 1984, 5; TSN, 14 April 1986, 21.

[47] TSN, 6 November 1987, 8-10.

[48] Article 14(16), Revised Penal Code.

[49] Article 64, Id.; *People vs. Muñoz*, 170 SCRA 107 [1989]; *People vs. Barba*, 203 SCRA 436 [1991].

[50] *People vs. Baguio*, 196 SCRA 459 [1991]; *People vs. Penillos*, 205 SCRA 546 [1992]; *People vs. Garcia*, 215 SCRA 349 [1992]; *People vs. Retuta*, 234 SCRA 645 [1994]. See also Administrative Circular No. 6-A-92.

[51] Section 1, Rule 111, Rules of Court.

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