

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN GANZAGAN, JR. Y MADAYAG, ACCUSED-APPELLANT.

G.R. No. 113793. August 11, 1995

Ponente: PUNO, J.

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PUNO, J.:

In order for conviction to lie, all the elements of the crime must be established beyond a reasonable doubt. In the case of murder, it is incumbent upon the prosecution to muster the evidence required by the Constitution to show not only that the unlawful killing was perpetrated by the accused, but also that any of the attendant circumstances that qualify it to murder exists. If it cannot be proven with moral certainty that at least one of the qualifying circumstances enumerated in Article 248 of the Revised Penal Code is present, the prosecution fails in its task, and the accused must be freed from liability for murder.

The case at bench commenced upon the filing on June 13, 1988 of an Information before the Regional Trial Court of Urdaneta, Pangasinan,[1] charging appellant JUAN MADAYAG GONZAGA, JR.[2] of murdering SERVILLANO VILLANUEVA MANUEL, JR., as follows:

"That on or about the 1[st] day of April 1988, in the evening, at Barangay Bayaoas, Municipality of Urdaneta, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with a single bladed bolo, called "Panabas", measuring about 26 inches including its handle, with deliberate intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and hack one Servillano Manuel, Jr. y Villanueva, inflicting upon him the following injuries, to wit:

"Significant External Findings:

- Abrasion, both knees; abrasion, right shoulder, lateral aspect; abrasion, right forefinger and middle finger; abrasion, chin, right half; abrasion with ecchymosis, right temple near right eye;
- Gaping wound, neck, left half, middle half, with exposed and severed muscles, veins and arteries, measuring 11 cms x 4 cms.;
- Incised wound, forehead, right half, above right eyebrow with exposed bone, measuring 6 cms. x 2 cms.;
- Incised wound, forehead, middle, measuring 5 cms. x 1 cm., with exposed wound;
- Incised wound, forehead, left half, with exposed bone, measuring 5 cms. x 1 cm.;
- Gaping wounds (5) nape and back of skull, beginning from back of head going down to nape;

Wound #1: measures 6 1/2 cms. x 1 cm.;

#2: measures 7 1/2 cms. x 1 1/2 cms.;

#3: measures 3 cms. x 1 1/2 cms.;

#4: 12 cms. x 1 1/2 cms.

#5: 6 cms. x 1 1/2 cms.

"Significant Internal Findings:

- Neck, left half, lateral aspect; severed jugular vein and carotid artery;
- Fracture, linear, right frontal bone, 6 cms. long;
- Fracture, linear, middle half of frontal bone, 2 cms. long;
- Fracture, linear, left half of frontal bone, 5 cms. long;

which caused the death of Servillano Manuel, Jr., y Villanueva as a consequence, to the damage and prejudice of his heirs."

Appellant was arraigned. He pleaded not guilty to the charge levelled against him. Trial ensued.

The records show that appellant and Servillano Manuel, Jr. lived in the same neighborhood in Sitio Las Vegas, Barangay Bayaoas, Urdaneta, Pangasinan.[3] During his lifetime, Servillano worked as a *kristo*, or cockpit bet caller, and as a collector in carnival shows.[4] Before his arrest, appellant was working part-time as a laborer.[5]

The prosecution produced an eyewitness in the person of ELINO MANUEL,[6] Servillano's younger brother. Elinio narrated that sometime after five o'clock in the afternoon (5:00 p.m.) of April 1, 1988, appellant came to their house looking for Servillano.[7] Failing to find him there, appellant boxed the door of the Manuel residence twice and left in a huff. "Hutdon mong tanan, patyon mong tanan," he uttered in Visayan as he left.[8] Chills ran down Elinio's spine. In his mind, he translated appellant's threat: "I will kill you all!"[9]

Fearing for his brother's life, Elinio rushed to the corner of Las Vegas Road and Sison Street, where he expected Servillano to pass on his way home from the poblacion. Unfortunately, he was wrong, for Servillano opted to take an alternate route back to their house.[10]

After waiting in vain at the corner for about an hour, Elinio headed home. On his way, he caught sight of appellant hacking Servillano with a bolo about fifteen (15) meters from where he was. Servillano was then stooped forward and away from appellant, with his head down and backside pointed upward.[11] Immobilized by shock, Elinio witnessed appellant strike Servillano four times, and then throw aside the bloodied bolo he used. Appellant escaped on-board a tricycle, together with his brother-in-law, Ernesto Adame.[12]

Servillano's body was autopsied on the morning of April 2, 1988, by rural health unit physician DR. RAMON GONZALES, JR.,[13] who found the cause of death to be "irreversible shock due to arterial hemorrhage caused by the hacking wound, neck." [14] His findings were reduced to a written report,[15] the contents of which are quoted in and incorporated into the Information filed against appellant.

The defense did not challenge the result of the autopsy conducted on Servillano's body, and did not question the medical findings as to the cause of death. Appellant, in fact, admitted that he inflicted the fatal hacked wounds on Servillano. However, appellant sought shelter behind the doctrine of self-defense. He and his wife, MARILOU GANZAGAN,[16] related a completely different version of what transpired on the day Servillano died.

The Ganzagas testified that at around five o'clock in the afternoon (5:00 p.m.) of April 1, 1988, they were at home. Marilou was then downstairs, preparing some *bilo-bilo*, while appellant was on the upper level of the house, watching over their two-month-old infant daughter.[17] Suddenly, Servillano Manuel, Jr., who was visibly upset, barged into their house, looking for appellant.[18] He left hurriedly without waiting for appellant to come down.[19]

Not long after, Servillano returned to the Ganzagan residence.[20] This time, he was armed with a bolo, with which he stuck the house near the kitchen.[21] Appellant confronted Servillano who cursed[22] and abruptly assaulted the former with the bolo. He delivered an overhead hacking blow[23] to appellant, who stepped back and parried the same with his right arm. The tip of the bolo hit the appendage and produced a three-centimeter nick on it.[24] Marilou rushed out of their house onto the street, screaming for help. None came to her aid, as

everyone was attending a procession along the Urdaneta-Asingan provincial road.[25] When she returned to their house, neither appellant nor Servillano was there.[26] She did not think to look for the two, and merely remained inside their house.[27]

Meanwhile, after a brief tussle with Servillano, appellant was able to wrest the bolo away from him. With bolo in hand, appellant ran to the middle of the road street.[28] He stopped when he remembered his baby, who was left alone in their house.[29] For the next five minutes, appellant stood transfixed on the road.[30] The impasse was broken by Servillano who renewed his attack.[31] In trying to grab the bolo back from appellant, Servillano stumbled and fell forward, face down and with his backside pointing up.[32] It was then that appellant hacked Servillano several times.[33]

Appellant fled from the scene of the crime. He went into hiding,[34] and a week passed after the incident before his wife saw him again.[35] Much later, during the pendency of the trial against him, appellant jumped bail.[36]

In rebuttal, the prosecution submitted in evidence a certification of the death of the Ganzagas' four-month-old son, Michael, on January 15, 1988, barely two-and-a-half (2 1/2) months before Servillano's killing.

At the close of trial, the court a quo decided against appellant. It held:

"The killing was qualified by evident premeditation and treachery because when (appellant) went to the house of the victim armed with a bolo looking for the latter who was not around, he had already the intention to kill him and said intention to kill was never abandoned as he waited for the arrival of the victim whom he saw along the road. There was treachery as the accused hacked the victim by the neck several times and the sudden and frontal attack on the forehead, thus causing his bones on the forehead to be exposed as shown in the medical certificate xxx. The exposure of the bones would only show that the hacking was therefore so strong enough as to insure his premeditated intention to kill the victim.

"WHEREFORE, in the light of the foregoing discussion, this Court believes that the prosecution was able to prove the guilt of the (appellant) beyond reasonable doubt. Pursuant to Art. 248 of the Revised Penal Code, the Court hereby finds the (appellant) Juan Ganzagan, Jr., guilty of the crime of Murder and sentences him to suffer the penalty of reclusion perpetua, considering the provisions of the 1987 Constitution (Art. III, Section 19(1)), and with all the accessory penalties provided by law; and to pay the civil liability of P50,000.00 to the heirs of the deceased; and moral damages in the amount of P50,000.00, with costs.

"SO ORDERED." (Citations omitted)[37]

Appellant now sets forth the following assigned errors:

"I

THE TRIAL COURT ERRED IN NOT UPHOLDING SELF-DEFENSE AS A GROUND FOR ACQUITTAL OF ACCUSED-APPELLANT.

"II

ON THE ASSUMPTION THAT ACCUSED-APPELLANT IS AT ALL GUILTY, THE TRIAL COURT NEVERTHELESS ERRED IN CONVICTING HIM FOR MURDER INSTEAD OF ONLY HOMICIDE CONSIDERING THAT NEITHER THE QUALIFYING CIRCUMSTANCE OF TREACHERY NOR PREMEDITATION WAS DULY ESTABLISHED."[38]

The appeal is partly meritorious. Appellant is not guilty of murder.

Appellant reiterates his reliance on the doctrine of self-defense to justify the killing of Servillano. He argues that

he was able to prove all the elements of defense of self, namely: (1) unlawful aggression; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself.

We are not persuaded.

There are strong reasons to doubt the defense version of the facts that led to the killing of Servillano. The account of the Ganzaga spouses is inconsistent with the common experience and observation of mankind.[39] Especially difficult to accept are the following assertions:

(1)

On the fateful afternoon of April 1, 1988, appellant was preparing bilo-bilo on the second floor of their house because he was looking after their two-month-old infant daughter. This is highly peculiar, since according to the records of their parish church (Exh. "F", Original Records, p. 227), their four-month-old infant son, Michael died barely two-and-a-half months prior to Servillano's killing;

(2)

While appellant and Servillano were grappling for possession of the latter's bolo, Marilou ran out to seek help. She said that she only ran to a distance of fifty (50) to one hundred (100) meters from their house, but it took her thirty (30) minutes to return home (TSN of November 22, 1993, pp. 5, 9, 10);

(3)

None heeded Marilou's call for help because everyone else in their entire neighborhood was attending a procession on the main road (Ibid., at p. 5);

(4)

When Marilou returned home and found neither her husband (appellant) nor Servillano there, she did not -- either out of worry or curiosity -- even try to find out what had happened to them (Id., at pp. 5, 12);

(5)

After he succeeded in taking the bolo away from Servillano, appellant ran out of their house to the middle of the road, where he stopped and stood doing nothing for five minutes. On cross-examination, he claimed that he stopped because he remembered that their infant daughter was left alone in their house. But, he did not attempt to return to their home anyway;

(6)

It took Servillano five minutes to reach appellant, who was standing fifteen (15) meters from where they had previously been wrestling, because he (Servillano) was drunk (TSN of November 23, 1993, p. 20); and

(7)

When Servillano finally caught up with appellant, he did not attack the former immediately although he thought that Servillano was again armed with a weapon. Instead, he waited until Servillano stumbled face down while trying to wrest the bolo away from him (appellant).

Furthermore, appellant's self-contradictions and vacillations in his testimony are patent and numerous. These were exposed in his cross-examination, where he was confronted and asked to explain several of his contradictory statements, viz.:

"FISCAL VENIEGAS:

"Q

On April 1, 1988 at about 5:00 o'clock, Servillano Manuel was drunk and he came to you in your house and extorted money from you, is that correct?

"WITNESS:

"A

Yes, sir.

"Q

As he used to do in the past everytime he is drunk?

"A

Yes, sir.

"Q

And he was asking money from you?

"A

Yes, sir.

"Q

How did he try to ask you for liquor money? Will you quote what he said?

"A

He told me, 'Will you give me money because I got short in the other side and I need some more money.'

"Q

Is that (during) the first time that he came or on the second time when he returned to your house?

"A

The first time, sir.

"Q

The first time, when you were upstairs making bilo-bilo?

"A

Yes, sir.

"Q

And he was talking to you?

"A

He talked with my wife, sir.

"Q

So, it was not you from whom he was asking money, but it was your wife?

"A

Yes, sir.

"Q

But you said the first time that he came, you testified that he was asking for you name and later he was asking for you from your wife.

"A

Yes, sir.

"Q

Then he left and later on, after about 30 minutes, he came back?

"A

Yes, sir.

"Q

And you went down because as you were upstairs, you went down and asked him why he was asking you. Correct?

"A

Yes, sir.

"Q

And Servillano Manuel without saying a word hacked you immediately. Is that correct, according to your testimony?

"A

Yes, sir.

"Q

Then you wrestled and wrested the bolo from him and you ran to the street. Is that correct?

"A

Yes, sir.

"Q

And in your earlier testimony, there is no point in time when you talked to him and (when he) asked you for wine money. Is that correct?

"A

Yes, sir.

"xxx xxx xxx

"Q

When Servillano Manuel returned to your house as you said, did he also ask where you were from your wife?

"A

Not anymore because he immediately hacked the post in the doorway.

"Q

And at that time, you got irked and you went downstairs?

"A

I went down. He was the one who got mad. I just went down the stairs.

"Q

What did he tell you when he came back if any?

"A

He said, 'vulva of your mother.'

"Q

Because you asked him why he was looking for you, correct?

"A

Yes, sir.

"Q

And he answered, 'Okinnam' (vulva of your mother)?

"A

Yes, sir.

"Q

In direct examination, you said that when Servillano returned after half an hour after the first time that he came to your house, you went down your house, asking him why he hacked the post and you said he did not answer and immediately hacked with a bolo on your right hand. Do you remember having said that?

"A

Yes, sir.

"Q

Why did you say that he answered you 'vulva of your mother'? Are you changing your previous testimony?

"A

Immediately before he hacked me, he said 'vulva of your mother.'

"Q

In other words, your previous testimony that he did not say anything before he hacked you is not correct?

"A

That is true.

"Q

But you did not tell the Court that he said 'vulva of your mother'.

"A

He said that.

"Q

But you did not mention to the Court in the first time.

"A

Because I am nervous.

"xxx xxx xxx

"Q

Now, in your direct testimony, you said that after wresting the bolo from Servillano, you ran towards the road and you stood there for five (5) minutes after which Servillano Manuel came to you and attacked you. Do you remember having stated that?

"A

That is why I pause for five (5) minutes in the road, because I thought of my baby in the house whom I wanted to protect because he might harm the baby instead.

"Q

But you also left your wife in the kitchen with your baby upstairs, correct?

"A

She was not there anymore because as soon as we fought with Servillano Manuel, my wife became hysterical and she ran away.

"Q

When you were at the road, you thought of your baby as you said. That is why you stayed there for five (5) minutes?

"A

Yes, sir.

"Q

And then it was at that time that Servillano Manuel appeared and tried to kill you as the intention as you said was to kill you.

"A

Yes, sir.

"Q

But he was already unarmed because you had already wrested the bolo from him?

"A

Yes sir, because during that time, I thought that he still had some arms with him because it was quite dark already.

"COURT

"Q

When you were standing there at the road, Servillano approached you?

"A

Yes, Ma'am.

"Q

When he approached you, why did you say that Servillano has intention to kill you?

"A

When Servillano Manuel came and approached me, he was so mad. I thought he was armed and it was quite dark then, so I decided to hack him.

"Q

When you decided to hack him, what did you use? The bolo you wrested from him?

"A

Yes, Ma'am.

"Q

Did he grapple for the possession of the bolo from you in the road?

"A

He tried to wrest the bolo from me while we were in the road.

"xxx xxx xxx

"Q

Will you demonstrate how he grappled the bolo again?

"A

While I was holding the bolo downward and I was standing by the road, Servillano Manuel came and lunged forward to get the bolo from my hand, and in that instance, he stumbled to the ground.

"Q

Will you demonstrate how Servillano stumbled?

"A

As he lunged forward to get the bolo from my hand, I moved my hand which held the bolo away from him. So, he fell to the ground, face down.

"Q

With the buttocks up?

"A

(The witness demonstrated how Servillano Manuel fell to the ground, face down with his buttocks up.)

"FISCAL VENIEGAS:

"Q

And Servillano Manuel was in that position when you hacked him?

"A

Yes, sir.

"Q

Could you tell the Court in the first blow when you hacked him, where did you hack him? What part of his body?

"A

His face and his arm.

"Q

You mean that in that position with face on the ground, you hacked his face and his hand?

"A

When Servillano came towards me he tried to wrestle the bolo away from me. That is why I lunged the bolo to his face. That is why his face and arm were hit.

"Q

At the same time, the face was hit?

"A

I cannot recall.

"Q

So, it is not true that when he came at you after you were standing there for five (5) minutes and you concluded his intention to kill you when he wrested the bolo, that he fell to the ground as you said?

"A

The first time he tried to wrestle the bolo from me, I immediately hacked him on the fact and the second time, he tried to wrestle (was when he fell down).

"Q

But in the demonstration, you demonstrated only one attempt on his part to wrestle the bolo from you. Is that correct?

"A

Yes, sir.

"xxx xxx xxx"[40]

In any event, even granting the defense's factual assertions, we are still unimpressed by appellant's theory of self-defense.

It is a well-entrenched principle in criminal law that the burden of proving the guilt of the accused lies squarely on the shoulders of the prosecution. Conviction must rest, not on the weakness of the defense, but on the strength of the prosecution.[41] In cases, however, where the accused admits committing the crime but invokes self-defense to escape liability, the rule is reversed and the burden of proof is shifted to the accused to prove the elements of his defense. As held in the case of *People v. Boniao*, 217 SCRA 653 (1993):

"By invoking self-defense, the appellant admitted killing the four (4) victims. The burden is, therefore, upon him to prove the existence, by clear and convincing evidence, of its essential requisites xxx; otherwise stated, the onus probandi was thus shifted to him xxx. He must rely on the strength of his own evidence and not on the weakness of that of the prosecution xxx, for even if the latter were weak, it could not be disbelieved after he himself admitted the killing xxx." (Citations omitted)

Thus, in claiming self-defense, appellant needs to convincingly establish that: (1) Servillano acted with unlawful aggression towards him; (2) the means he employed to repel such aggression was reasonable; and (3) he did not sufficiently provoke Servillano towards aggression. If appellant fails to discharge this burden of proof, his conviction shall of necessity follow, on the basis of his admission to the killing.

Unlawful aggression, which is an indispensable element of self-defense,[42] is an assault or attack, or a threat thereof in an imminent and immediate manner, which places the accused's life in actual peril.[43] It is an offensive act positively strong and determinative of the aggressor's intent to cause harm or injury.[44] It presupposes a material attack which is impending or at the point of happening, and not merely an intimidating attitude or stance.

In the case at bench, appellant testified that after the initial bolo attack on him, he was able to take possession of the weapon and run away from Servillano. At that point, the unlawful aggression against him effectively ceased. When hostilities resumed five minutes later, appellant was the armed protagonist, and Servillano's act of trying to wrest the bolo back from him cannot be considered as unlawful aggression. Appellant no longer faced any imminent or immediate danger to his life and limb from his opponent.

There was no unlawful aggression by Servillano. Appellant had nothing to repel. Therefore, he cannot successfully posit the view that he was merely defending himself when he killed Servillano.

Parenthetically, appellant's claim of self-defense is further belied by the physical evidence in the case, specifically the number, location and severity of the hacked wounds found on Servillano. Dr. Gonzales found five (5) gaping wounds on Servillano's neck, running from the back of the head to the nape which exposed and severed the muscles, veins and arteries in the neck area. These indicate clearly that appellant's act was no longer one of self-preservation, "but a determined effort to kill his victim." [45]

Appellant next postulates that even if self-defense were unavailable to him, he should only have been found guilty of committing homicide, and not murder. He claims that neither treachery nor evident premeditation, which are alleged in the Information, are present in the case at bench.

We are convinced.

The circumstances that qualify murder must be proven as indubitably as the killing itself. The presence of treachery[46] and evident premeditation[47] must not be deduced from mere presumption or sheer speculation.

Unfortunately, in the case at bench, that is exactly what the trial court did in concluding that both qualifying circumstances are present.

Article 14 (16) of the Revised Penal Code defines treachery thus:

"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." (Italics ours.)

Its essence lies in the adoption of ways that minimize or neutralize any resistance which may be put up by the offended party.

In the present case, the prosecution failed to present any witness to testify as to the manner by which Servillano was attacked by appellant. Their sole eyewitness, Elin Manuel, only saw the actual hacking of the victim by appellant, and not the events that led to it. The records provide no basis for the trial court's finding of treachery. As we held in the case of *People v. Bachar*, 170 SCRA 700 (1989)[48]:

"xxx Not a single eyewitness to the stabbing incident had been presented by the prosecution. Thus, the record is totally bereft of any evidence as to the means or method resorted to by appellant in attacking the victim. It is needless to add that treachery cannot be deduced from mere presumption, much less from sheer speculation. The same degree of proof to dispel reasonable doubt is required before any conclusion may be reached respecting the attendance of alevosia."

Evident premeditation suggests the deliberate hatching of a plan to execute a crime. Its elements are: (1) a previous decision by the accused to commit the crime; (2) an overt act/acts manifestly indicating that the accused clung to his determination; and (3) a lapse of time between the decision to commit the crime and its actual execution sufficient to allow the accused to reflect upon the consequences of his acts.

Time and again, we have held that evident premeditation cannot be appreciated to qualify a killing to murder in the absence of direct evidence of the planning and preparation to kill when the plan was conceived.[49] In the case at bench, the prosecution failed to prove with any certainty that appellant had planned and prepared to kill Servillano previous to the fatal hacking. The records are bereft of any indication of such a plot. Furthermore, the findings of the court a quo that appellant was already armed with a bolo when he went to the Manuel residence looking for Servillano and that he waited in ambush for the latter, are totally unfounded. These were never mentioned in the testimony of prosecution eyewitness Elin Manuel.

Absent the qualifying circumstances of treachery and evident premeditation, the crime committed by appellant is not murder, but homicide, as defined and penalized under Article 249 of the Revised Penal Code.

IN VIEW WHEREOF, the conviction of appellant JUAN MADAYAG GANZAGAN, JR. by the Regional Trial Court of Urdaneta, Pangasinan, Branch 48 in Criminal Case No. U-4850 is AFFIRMED, but he is found GUILTY of the lesser crime of HOMICIDE. The appealed Decision, dated December 6, 1993, is MODIFIED so that appellant shall instead suffer the penalty of from twelve (12) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Mendoza, and Francisco, JJ., concur.

- [1] The case, docketed as Criminal Case No. U-4850, was raffled off to RTC of Urdaneta, Pangasinan, Branch 48, presided over by Judge Alicia Gonzalez-Decano.
- [2] Testified on November 23, 1993. He was then 32 years old, married, and a resident of Las Vegas, Bayaoas, Urdaneta, Pangasinan.
- [3] TSN of November 15, 1993, p. 2.
- [4] TSN of November 16, 1993, pp. 12-13.
- [5] TSN of November 23, 1993, p. 2.
- [6] Testified on November 15, 1993. He was then 32 years old, single, and a resident of Bayaoas, Urdaneta, Pangasinan.
- [7] TSN of November 15, 1993, p. 3, 10.
- [8] Ibid., at p. 3.
- [9] Ibid., at pp. 3-4. Elino Manuel himself testified that he understood the phrase to mean "I will kill you all!" To verify his statement, the trial court asked the process server of Branch 46 of the RTC of Urdaneta, Pangasinan, Mrs. Thelma Ortiz (she hails from the Visayas) to translate appellant's utterance. Mrs. Ortiz translated it to mean, "Papatayin ko kayong lahat, uubusin ko kayong lahat."
- [10] TSN of November 15, 1993, pp. 4-5.
- [11] Ibid.
- [12] Id., at p. 6.
- [13] Testified on November 16, 1993. He was then 52 years old, married, and a resident of Poblacion, Urdaneta, Pangasinan.
- [14] Exh. "C", Original Records, p. 10.
- [15] Ibid.
- [16] Testified on November 22, 1993. She was then 32 years old, married, a vendor, and residing in Bayaoas, Urdaneta, Pangasinan.
- [17] TSN of November 22, 1993, p. 7.
- [18] Ibid., at p. 3.
- [19] Id., at p. 4; TSN of November 23, 1993, p. 5.
- [20] Ibid.
- [21] TSN of November 15, 1993, at p. 8.
- [22] TSN of November 23, 1993, p. 13.
- [23] Ibid., at p. 14.
- [24] TSN of November 15, 1993, p. 4; TSN of November 23, 1993, pp. 5, 15.
- [25] TSN of November 15, 1993, at pp. 4, 5, 8, 9.

- [26] Ibid., at p. 10.
- [27] Id., at p. 12.
- [28] TSN of November 23, 1993, p. 16.
- [29] Ibid., at p. 17.
- [30] Id., at p. 5.
- [31] Id., at pp. 6, 16.
- [32] Id.
- [33] Id., at pp. 17, 19.
- [34] Exh. "B"; Original Records, p. 8.
- [35] TSN of November 15, 1993, p. 13.
- [36] TSN of November 23, 1993, p. 21.
- [37] Decision in Criminal Case No. U-4850, p. 9.
- [38] Appellant's Brief, p. 1; Rollo, p. 50.
- [39] *People v. Maceda*, 197 SCRA 499 (1991), citing *People v. Acusar*, 82 Phil. 490 (1948).
- [40] TSN of November 23, 1993, pp. 8-19.
- [41] See *People v. Capilitan*, 182 SCRA 313 (1990); *People v. Bustarde*, 182 SCRA 554 (1990).
- [42] *People v. Morato*, 224 SCRA 361 (1993); *People v. Bausing*, 199 SCRA 355 (1991).
- [43] F. Moreno, *Philippine Law Dictionary*, Third Edition (1982).
- [44] Ibid.
- [45] *People v. Maceda*, op. cit., at p. 509.
- [46] See *People v. Gaddi*, 170 SCRA 649 (1989).
- [47] See *People v. Pastoral*, 226 SCRA 219 (1993).
- [48] Quoting *People v. Duero*, 136 SCRA 515 (1985).
- [49] *People v. Manuel*, 234 SCRA 532 (1994); *People v. Salvador*, 224 SCRA 819 (1993).

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