

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO AGSUNOD, JR. Y BIBAY, ACCUSED-APPELLANT.

*G.R. No. 118331. May 03, 1999*

Ponente: QUISUMBING, J.

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### QUISUMBING, J.:

This is an appeal from the decision[1] dated September 28, 1994 of the Regional Trial Court of Tuguegarao, Cagayan, Branch 5, in Criminal Case No. 6180 convicting accused-appellant Rodrigo Agsunod, Jr. y Bibay of the crime of Murder attended by the qualifying circumstance of abuse of superior strength, and sentencing him to suffer the penalty of reclusion perpetua with the accessory penalties provided under Article 41 of the Revised Penal Code, to pay the heirs of the victim P50,000.00 as indemnity and to pay the costs.

Appellant Rodrigo B. Agsunod, Jr. is a farmer, married, a father of five children, and a resident of Nabbotuan, Solana, Cagayan. At the time of the incident, the victim Rodolfo D. Sebastian, was a municipal councilor, and a resident of Barangay Parog-Parog,[2] Solana, which is about a thirty-minutes walk from Nabbotuan. The victim's son, Reymundo[3] Sebastian, who witnessed the killing, is a member of Civilian Armed Forces Geographical Unit (CAFGU) attached to the Philippine Army Detachment at Callilliauan,[4] Solana.

The facts as found by the Office of the Solicitor-General,[5] which we find to be duly supported by the records, are as follows:

"At about 6 o'clock in the evening of July 7, 1992, appellant Rodrigo Agsunod, Jr. and his five (5) companions, who wore fatigue uniforms and were armed with armalite rifles, arrived at the house of Rodolfo Sebastian, a barangay councilman, in Barangay Parug-Parug, Solana, Cagayan. Appellant inquired from Raymundo Sebastian, son of Rodolfo Sebastian and a CAFGU member, as to the whereabouts of his father. After being told that Rodolfo was not around, appellant waited a while. Later, appellant called Raymundo and asked him to accompany them to the house of Ex-Barangay Captain Evaristo Julian which was located nearby. Raymundo was forced to accompany appellant and two (2) of his companions.

Upon arrival at the house of Evaristo Julian, the group entered and found Evaristo taking supper with his family. Appellant asked Evaristo to bring out his guns. Evaristo Julian answered that his firearms were all licensed, that his .38 caliber pistol was in the custody of the PNP of Solana, Cagayan, and that only a .22 caliber rifle was left in his possession. Appellant asked to see the rifle. Evaristo brought it out. Thereupon, the group left taking with them Evaristo's .22 caliber rifle (TSN, November 10, 1993, p. 6; TSN, November 24, 1993, pp. 4-7).

The group returned to the house of Rodolfo Sebastian. There, they saw Rodolfo Sebastian, who had just arrived, conversing with appellant's three (3) other companions in the yard of his house. Upon seeing appellant and his armed companions, Rodolfo Sebastian rushed towards his house. Instantaneously, appellant fired at Rodolfo Sebastian using Evaristo's .22 caliber rifle. The bullet grazed Rodolfo's chest. Wounded, Rodolfo Sebastian nonetheless tried to reach his house but appellant's companions fired their armalite rifles at him killing Rodolfo Sebastian on the spot. (TSN, November 10, 1993, pp. 6-10; TSN, November 17, 1993, pp.

3-15).

Ten (10) months later, or on May 27, 1993, appellant was arrested in Tuguegarao, Cagayan by operatives of the Philippine Army (PA) Detachment in Calilauan, Solana, Cagayan. Thereupon, appellant was brought to the PA Detachment in Calilauan where he was positively identified by Raymundo Sebastian and Purificacion Sebastian as among the killers of Rodolfo Sebastian. In that confrontation, Raymundo Sebastian and Purificacion Sebastian came to know for the first time that appellant's name was Rodrigo Agsunod, Jr. (TSN, November 17, 1993, p. 6; TSN, April 21, 1994, pp. 6-10)"

Among the assailants, only appellant was identified and arrested. Hence, in an Information dated July 1, 1993, Provincial Prosecutor Alejandro A. Pulido III charged Rodrigo B. Agsunod, Jr. with the crime of Murder, committed as follows:

"That on or about July 7, 1992, in the Municipality of Solana, Cagayan, and within the jurisdiction of this Honorable Court, the said accused Rodrigo Agsunod, Jr. y Bibay, together with several John Does, who were not identified, armed with guns, conspiring together and helping one another, with intent to kill, with evident premeditation, with treachery, taking advantage of superior strength, and with the aid of armed men, did then and there wilfully (sic), unlawfully and feloniously attack, assault and shoot one, Rodolfo Sebastian, inflicting upon him several gunshot wounds on the different parts of his body which caused his death.

Contrary to law."

Arraigned on October 20, 1993, appellant, duly assisted by counsel de oficio Atty. Antonio N. Laggui, entered a plea of NOT GUILTY. Trial on the merits ensued.

The prosecution presented three (3) witnesses: (1) Purificacion Sebastian, the wife of the victim, and (2) Reymundo Sebastian, the son of the victim, who both witnessed the killing, and (3) Evaristo Julian, the former barangay captain, who corroborated the testimonies of the eyewitnesses as to the events leading to the killing.

On December 17, 1993, appellant, through counsel, filed a Motion for Leave to file Demurrer to Evidence, which was granted. The Demurrer[6] alleged that that the prosecution failed to prove conspiracy; that the shooting of the victim by the accused is doubtful; and that there was no proof of cause of death of the victim nor was there a police report of the incident, hence accused was entitled to an acquittal. The prosecution duly filed its Opposition to the Demurrer. In the meantime, on February 9, 1994, Atty. Antonio N. Laggui manifested in open court that he was withdrawing as counsel de oficio on the ground that he and accused could not agree on the theory of the defense, and the court appointed Atty. Raul S. Morales as counsel de oficio for the accused. Trial continued for the reception of evidence.

The defense presented the following as witnesses: (1) Rodrigo B. Agsunod, Jr., accused-appellant himself, who claimed that he was at home "resting" on the night of July 7, 1992;[7] (2) Angelito Dieza, who testified that he had a drinking session with appellant until around 5:00 o'clock in the afternoon of July 7, 1992;[8] (3) Gloria Agsunod, the wife of appellant, who likewise testified that appellant never left their house on the night of the incident since he was stone drunk at that time;[9] (4) Balbina Viernes, who testified that she went to the house of the appellant on the night of the incident where she heard appellant's wife berating him for getting drunk;[10] and (5) Fatima Macatuggal, Special Investigator of the Commission of Human Rights, who testified that their office conducted an investigation in connection with the death of the victim but later archived the case because the perpetrators were allegedly unidentified members of the New People's Army.[11]

On September 28, 1994, the trial court rendered a decision[12] finding accused Rodrigo B. Agsunod, Jr., guilty as charged. The trial court found that conspiracy existed among the appellant and the other John Does, and that the killing was attended by abuse of superior strength which qualified the killing to murder. Finding no mitigating or

generic aggravating circumstances, the trial court imposed the penalty of reclusion perpetua. The dispositive portion of the decision states:

"WHEREFORE, the court finds accused Rodrigo Agsunod, Jr. y Bibay guilty beyond reasonable doubt of the crime of Murder and sentences him to suffer the penalty of Reclusion Perpetua together with the accessory penalties provided for in Art. 41 of the Revised Penal Code and to pay the heirs of Rodolfo Sebastian a civil indemnity of Fifty Thousand (P50,000.00) Pesos and to pay the cost."

On October 4, 1994, appellant filed a Notice of Appeal[13] from the aforesaid decision. Appellant claims that the trial court gravely erred in:

- ... CONVICTING ACCUSED-APPELLANT OF MURDER DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

- ... GIVING FULL WEIGHT AND CREDENCE TO THE CONFLICTING, UNBELIEVABLE, IMPROBABLE, AND INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.

The resolution of this appeal hinges on the determination of credibility of the testimonies of the prosecution witnesses. Appellant contends that a careful perusal of the testimonies of the prosecution witnesses would show these are not only tainted with glaring inconsistencies but are likewise unbelievable and improbable, viz:

(1) Reymundo Sebastian testified that when appellant went to their house, he was carrying an armalite. Appellant argues that he could not have carried the armalite, and fire at the victim with the "borrowed" .22 cal. rifle.

(2) Purificacion Sebastian could not have identified the type of weapon used in shooting her husband since she did not have any military background;

(3) Evaristo Julian testified that appellant's group held hostage his grandchild, but Reymundo Sebastian never mentioned such fact in his testimony.

(4) While the Death Certificate of Rodolfo Sebastian was presented in evidence, appellant contends that this merely proved the fact of death, not the cause of death of the victim.

(5) While the incident occurred on July 7, 1992, the investigation was conducted only on May 31, 1993. The suspicious delay in reporting the incident to the authorities showed that the prosecution had no concrete evidence against appellant, who was merely a fall guy.

The inconsistencies alleged by appellant appear to be more imagined than real.

First, a review of the testimony of Reymundo Sebastian does not disclose that appellant was carrying an armalite rifle when he shot the victim with the .22 cal. rifle of Evaristo Julian. It was actually the companions of appellant who were carrying the armalite rifles. Purificacion Sebastian corroborated Reymundo's observation that appellant was armed with a .22 cal. rifle while the other five companions of appellant were armed with armalite rifles.[14]

Second, Purificacion Sebastian already explained that she was familiar with firearms because military soldiers often dropped by their house.[15]

Third, Evaristo Julian's testimony regarding the holding of his grandchild as hostage by appellant and his companions had no bearing on the killing of the victim, but in fact showed that Evaristo was coerced by appellant to hand over his .22 cal. rifle.

Fourth, the Certificate of Death of Rodolfo D. Sebastian[16] indicates the cause of death as "shock, multiple gunshot wounds on the body" which is consistent with the testimonies of the prosecution witnesses and the circumstances attending the killing of the victim. In this case, the corpus delicti was duly proven. Corpus delicti

means the fact of a specific injury or loss sustained; and in murder, the fact of death is the corpus delicti.[17] Corpus delicti is the fact of the commission of the crime which may be proved by the testimony of eyewitnesses who saw it.[18] It has even been held that "[i]n a case of murder or homicide, it is not necessary to recover the body or to show where it can be found. There are cases like death at sea, where the finding or recovery of the body is impossible. It is enough that the death and the criminal agency causing it be proven,[19] to satisfy the requirement of corpus delicti.

Fifth, the delay in reporting the incident could be explained by the fact that accused and his companions were total strangers to the prosecution witnesses, who could not give out the names of the assailants, but only describe them. Delay in revealing the identity of the perpetrators of a crime does not necessarily impair the credibility of a witness, especially where such witness gives a sufficient explanation.[20]

Both Purificacion and Reymundo maintained that although they did not know the names of the suspects, they could readily identify them if they saw them again.[21] Knowing the identity of an accused is different from knowing his name. Hence, the positive identification of the malefactors should not be disregarded just because the name of the appellant was supplied to the eyewitness after the former was identified at the police station. For the weight of the eyewitness account is premised on the fact that the said witness saw the accused commit the crime, and not because he or she knew their names.[22]

Besides, no strong ill-motive was attributed to the prosecution witnesses to make this Court conclude that they wanted to have the wrong men callously sent to jail merely to avenge the killing of a loved one.

Lastly, Reymundo Sebastian testified in a categorical and straightforward manner as to the events leading to the death of his father. We quote: [23]

Q: (Prosecutor Sagucio) Do you recall where were you on the night of July 7, 1992?

A: Yes, sir.

Q: Where were you?

A: I was then in our house, sir.

x x x

Q: What were you doing in your house?

A: On the night of July 7 I was then actually repairing our radio, sir.

Q: When you were then repairing your radio in your house, do you recall if there is any unusual incident that transpired?

A: There is, sir.

Q: Will you tell this honorable court what was that event all about?

A: On the night of July 7, 1992, Rodrigo Agsunod and companions arrived in our house, sir.

Q: About what time when Rodrigo Agsunod and his companions arrived in your house?

A: Around 6:00 o'clock, sir.

Q: And how many were they including Rodrigo Agsunod?

A: They are six in all, sir.

Q: When Rodrigo Agsunod and his five companions arrived, what happened?

A: They were asking the whereabouts of my father, sir.

Q: What is the name of your father?

A: Rodolfo Sebastian, sir.

Q: Who among the six who arrived in your house asked for the whereabouts of your father?

A: Rodrigo Agsunod, sir.

Q: What exactly did Rodrigo Agsunod tell you or ask from you?

A: They asked the whereabouts of my father, sir.

Q: And what was your answer?

A: He is not around, sir.

Q: And when you said that your father was not around, what happened next?

A: Because when we could not wait for my father Rodrigo Agsunod called me and two of his companions, sir.

Q: And what did he tell you when he called for you?

A: He told me sir that we will go to the house of the ex-barangay captain, sir.

Q: What is the name of the barangay captain?

A: Evaristo Julian, sir.

Q: And did you actually go to the house of ex-barangay captain Evaristo Julian?

A: I was forced to go with them because they poked their gun to me, sir.

Q: And you reached the house of Evaristo Julian?

A: Yes, sir.

Q: When you were in the house of Evaristo Julian, what happened?

A: They entered the house and afterwhich they took the 22 caliber of the ex-barangay captain, sir.

Q: How far is your house away from the house of Evaristo Julian?

A: Around fourteen (14) meters, sir.

Q:

And after Rodrigo Agsunod and his two companions took that caliber 22 rifle from the house of Evaristo Julian, what did you do?

A: We went back to our house, sir.

Q: Together with Rodrigo Agsunod and his companions?

A: Yes, sir.

Q: When you arrived in your house, what happened?

A: Then my father is already there in our house who just arrived, sir.

Q: Were there companions of your father when you arrived in your house?

A: Yes the three companions of Rodrigo Agsunod that were left behind, sir.

Q: After you arrived together with your two companions in your house, what happened?

A:

Upon our arrival sir then my father and the three companions of Rodrigo Agsunod who were left behind were then conversing with each other and then upon our arrival and upon seeing Rodrigo Agsunod and his companions then my father sensed something wrong so he went inside our house and at that instance Rodrigo Agsunod fired his gun to my father, sir.

ATTY. LAGGUI: May we pray that the answer be stricken off the record being not responsive.

COURT: Let it remain in the records.

COURT: Proceed.

PROS. SAGUCIO:

Q:

By the way, when you arrived in your house coming from the house together with Rodrigo Agsunod and his two companions coming from the house of Evaristo Julian, where were your father and the three (3) companions of Rodrigo Agsunod actually conversing with each other?

A: Within the yard of our house, sir.

Q: How far is your house and that to the house of your father?

A:

Around three (3) meters, sir.

Q: What gun was used by Rodrigo Agsunod in firing at your father?

A: . 22 caliber, sir.

Q: That was the same gun he took from the house of Evaristo Julian?

ATTY. LAGGUI: Leading your Honor.

COURT: Sustained.

PROS. SAGUCIO:

Q: Was your father hit when he fired your father?

ATTY. LAGGUI: Leading your Honor.

COURT:

Q: What happened when your father was fired upon?

A:

When he was fired upon by Rodrigo Agsunod my father directly went inside the house then he was followed by two of Rodrigo Agsunod's companions, sir.

COURT: Proceed.

PROS. SAGUCIO:

Q:

And when your father went inside your house and he was followed by the two companions of Rodrigo Agsunod, what happened?

A: Then they again fired my father with M-16 rifle, sir.

COURT:

Q: Who did that?

A: The companions of Rodrigo Agsunod, sir.

COURT: Proceed.

PROS. SAGUCIO:

Q: Was your father hit when he was fired upon?

A: Yes, sir.

Q: What parts of his body were hit?

A: The witness is pointing to his abdomen and his right thigh, sir.

Q: Do you know how many gun shot wounds sustained or received by your father?

ATTY. LAGGUI: Objection.

COURT: The autopsy report is the best evidence.

PROS. SAGUCIO: I withdraw the question.

Q:

Now, you said a while ago that Rodrigo Agsunod fired at your father with the use of a caliber 22 rifle, was your father hit when he fired they gun?

COURT:

Q: What happened to your father when he was fired upon?

A: He was hit on the chest (daplis).

COURT: Proceed.

PROS. SAGUCIO:

Q: What happened to your father when he was fired upon?

A: He died, sir.

Q: If that Rodrigo Agsunod is in court whom you said who first fired at your father is in court, can you point at him?

A: Yes, sir.

INTERPRETER: The witness went down to the witness stand and pointed to a person who gave his name as

Rodrigo Agsunod.

PROS. SAGUCIO:

Q: Do you know the names of the five companions of Rodrigo Agsunod?

A: No, sir.

Q: But were you able to identify them?

A:

Yes I could identify them if I can see them, sir

COURT: Why only Rodrigo Agsunod was accused here?

PROS. SAGUCIO: Yes your Honor because the other five the names were not known.

COURT: Proceed.

PROS. SAGUCIO: That will be all for the witness your Honor.

Purificacion Sebastian likewise testified in a categorical, straight-forward manner which bears the earmarks of truth and certainty:[24]

DIRECT EXAMINATION:

Q: When you were giving your personal circumstances, you stated that you are a widow, when did your husband die?

A: July 7, 1992, sir.

Q: In what particular place did your husband die?

A: Within our yard, sir

Q: Why, where is your house located?

A: Parog-Parog, sir.

Q: What town and province?

A: Solana, Cagayan, sir.

Q: What was the cause of the death of your husband?

ATTY. LAGGUI: Incompetent, your Honor.

PROS. SAGUCIO: If she knows, your Honor.

COURT: May answer.

A: He was shot, sir.

PROS. SAGUCIO:

Q: Who shot him?

A: Rodrigo Agsunod, sir

Q: If that Rodrigo Agsunod who shot your husband is in the courtroom, will you be able to point at him?

A: Yes, sir.

Q: Will you please point to accused Rodrigo Agsunod?

MR. BIRUNG: The witness pointed to the accused who gave his name as Rodrigo Agsunod.

PROS. SAGUCIO:

Q:

The accused shot your husband, do you know what kind of firearm did he use?

A: I know, sir.

Q: What kind of firearm did he use?

A: . 22 Caliber rifle, sir.

Q: Was Rodrigo Agsunod alone in shooting your husband?

A: He was the one who shot my husband but he has companions, sir.

Q: Your husband was shot by Rodrigo Agsunod, what part of the body of your husband was hit?

A: The chest and the thigh, sir.

Q: How many were the companions of Rodrigo Agsunod?

A:

There are six in all, sir.

Q: About what time when your husband was shot?

A: 7:30 o'clock in the evening, sir.

Q: It was already 7:30 o'clock in the evening, how were you able to recognize the accused?

A: It was then bright at that time, sir.

Q: Do you know the names of the five companions of Rodrigo Agsunod?

A: If I could see them, I could still identify them, sir.

x x x"

This Court has repeatedly stressed, "factual findings of the trial court, as well as its assessment of the credibility of witnesses are entitled to great weight and are even conclusive and binding, barring arbitrariness and oversight of some fact or circumstance of weight and substance." [25] The assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court. [26] As this Court has reiterated often enough, the matter of assigning values to declarations at the witness stand is best and most competently performed or carried out by a trial judge who, unlike appellate magistrates, can weigh such testimony in light of the accused's behavior, demeanor, conduct and attitude at trial. [27] Nothing in this case compels us to depart from this salutary rule.

Appellant's invocation of denial and alibi is strained, and merits scant consideration. For alibi to prosper, accused-appellant must prove that he was not present at the scene of the crime but also that it was physically impossible for him to have been present there at the time the offense was committed. [28] This appellant failed to do. While appellant himself testified that on the night of July 7, 1992, he was at home, "resting" without any mention as to his drunken state, [29] the other defense witnesses, in particular his wife, testified that appellant was at home, stone drunk. [30] Indeed, if appellant was truly drunk at the time of the incident, he would have surely pointed out his inebriated state during his testimony in court. Such glaring inconsistency between the testimony of the appellant and his witnesses casts serious doubts as to the veracity of his alibi. Considering further that appellant's residence in Barangay Nabbotuan is a mere thirty-minute walk from the locus criminis in Parog-Parog, Solana, it was not physically impossible for appellant to have committed the killing and then gone home afterwards.

Well-entrenched is the rule that positive and categorical identification of the appellant as one of the assailants cannot prevail over his alibi that he was merely at home at the time of the incident. [31] Appellant was identified by no less than two eyewitnesses, Purificacion Sebastian and Reymundo Sebastian, whose testimonies were corroborated by the testimony of Evaristo Julian, and their testimonies examined as a whole present an airtight narration of the events leading to the killing of the victim by appellant and his five companions.

The trial court correctly appreciated the qualifying circumstance of abuse of superior strength. To take advantage of superior strength is to use excessive force out of proportion to the means available to the person attacked to defend himself. [32] In order to be appreciated it must be clearly shown that there was deliberate intent on the part of the malefactors to take advantage thereof. [33] In this case, appellant and his companions purposely used their superior and combined strength in committing the crime. The victim, who was unarmed, was clearly no match for his six assailants who were wearing military fatigues, five of whom were armed with armalite rifles, while appellant was armed with a .22 cal. rifle. The notorious inequality of forces between the victim and aggressors was adequately shown.

Pursuant to existing jurisprudence, we likewise affirm the ruling of the trial court awarding the amount of P50,000.00 as civil indemnity to the heirs of the victim. [34]

At the time of the commission of the crime, the penalty for Murder under Article 248 of the Revised Penal Code was reclusion temporal in its maximum period to death. In the absence of any mitigating or aggravating circumstance, the penalty was correctly imposed in its medium period, which is reclusion perpetua. [35]

WHEREFORE, the instant appeal is hereby DENIED, and the decision of the Regional Trial Court of Tuguegarao, Cagayan, Branch 5, convicting accused-appellant Rodrigo Agsunod, Jr. y Bibay of the crime of Murder and sentencing him to suffer the penalty of reclusion perpetua, is hereby AFFIRMED.

Costs against appellant.

**SO ORDERED.**

Bellosillo (Chairman), Puno, Mendoza, and Buena, JJ., concur.

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[1] Judge Hilarion L. Aquino, presiding.

[2] Spelled as "Parog-Parog" in the Criminal Complaint, Decision, Certificate of Death, and other records in the trial court, but "Parug-Parug" in the Demurrer to Evidence, and interchangeably used in the TSNs.

[3] Spelled as "Raymundo" in the TSN.

[4] Spelled as "Callilliauuan" in the Decision, but "Calilauan" in the TSN.

[5] Appellee's Brief, Rollo, pp. 77-99.

[6] Records, pp. 48-54.

[7] TSN, April 21, 1994, p. 5.

[8] TSN, April 27, 1994, p. 6.

[9] TSN, May 4, 1994, p. 6.

[10] TSN, May 11, 1994, p. 5.

[11] TSN, August 18, 1994, p. 6.

[12] Records, pp. 92-101.

[13] Records, p. 103.

[14] TSN, November 17, 1993, pp. 6-7.

[15] TSN, November 17, 1993, pp. 8-9.

[16] Exhibit "A", Criminal Complaint, Records, pp. 5-6.

[17] *People v. Garcia*, 99 Phil. 381, 384-385 (1956); citing *People v. Batangan*, 54 Phil. 834; *People v. Moros Ansang, et.al.*, 93 Phil. 44; *People v. Marquez*, 77 Phil. 83.

[18] *People v. Kalim*, 81 Phil. 107, 111 (1948).

[19] *People v. Sasota, et. al.*, 91 Phil. 111, 116 (1952).

[20] *People v. Pallarco*, 288 SCRA 151, 164 (1998); *People v. Alberca*, 257 SCRA 613, 631 (1996); *People v. Alcantara*, 254 SCRA 384, 394 (1996).

[21] TSN, November 17, 1993, p. 4; TSN, November 10, 1993, p. 10.

[22] *People v. Barredo*, G.R. No. 122850, October 7, 1998, p. 1.

[23] TSN, November 10, 1993, pp. 4-10.

[24] TSN, November 17, 1993, pp. 3-4.

[25] *People v. Castillo*, 289 SCRA 213, 221 (1998).

[26] *People v. Oliano*, 287 SCRA 158, 169 (1998).

[27] *People v. Sabalones*, G.R. No. 123485, August 31, 1998, p. 29.

[28] *People v. Nialda*, 289 SCRA 521, 532 (1998); citing *People v. Balderas*, 276 SCRA 470 (1997).

[29] TSN, April 21, 1994, p. 5.

[30] TSN, May 4, 1994, p. 6; TSN, May 11, 1994, p. 5.

[31] See *People v. De Guzman*, 289 SCRA 470, 478 (1998).

[32] *People v. Gayon*, 269 SCRA 587, 595 (1997); *People v. Halili*, 245 SCRA 340 (1995).

[33] *People v. Gayon*, 269 SCRA 587, 595 (1997); *People v. Escoto*, 244 SCRA 87 (1995).

[34] *People v. Trilles*, 254 SCRA 633, 643 (1996); *People v. Dones*, 254 SCRA 696, 710, (1996).

[35] Article 64, Revised Penal Code.

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